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JOINT EDITORS :

RAVINDER MOHAN SURI & SHASHI MOHAN SURI

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PART I

NOTIFICATIONS, CENTRAL GOVERNMENT & SUPREME COURT OF INDIA

1995

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 253, dated 20th May, 1994.

MINISTRY OF CIVIL SUPPLIES & CONSUMER AFFAIRS

No. S.O. 385 (E).— *(Dated 20th May, 1994).*—In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order further to amend the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Order, 1977, namely :—

1. (1) This Order may be called the **Pulses, Edible Oilseeds and Edible Oils (Storage Control) Amendment Order, 1994.**

(2) It shall come into force from the 1st day of June, 1994.

2. In the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Order, 1977, for Clause 7, the following clause shall be substituted, namely :—

"7. **Order not to apply in certain cases,—**

Nothing in this Order shall apply to—

(i) a Corporation or a Company owned or controlled by the Central Government or a State Government or a Statutory Corporation, or

(ii) a Central level or a State level cooperative society,

engaged in the production, procurement, sale, purchase or distribution of pulses.".

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 253, dated 13th May, 1994.

MINISTRY OF FOOD

No. S. O. 374 (E).— *(Dated 13th May, 1994).*—In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order, namely :—

1. **Short title and commencement.**—(1) This Order may be called the **Gur (Control) Order, 1994.**

(2) **It shall come into force on the date of its publication in the Official Gazette.**

2. **Definitions.**— In this order, unless the context otherwise requires,—

(a) "Gur" means an article obtained after boiling sugarcane juice, with or without admixture of molasses and containing :—

(i) total sugars (sucrose plus reducing sugars) raising from 70.0 to 95.0

per cent, of dissolved solids ; and

(ii) ash (sulphated) ranging from 1.3 to 5.0 per cent, of dissolved solids and includes, gul, jaggery, shakkar, raab or intermediatery product of sugarcane juice in its solid form ;

(b) "dealer" means a person engaged in the business of purchase, sale or storage for sale of gur and having valid licence granted for that purpose by the State Government.

3. **Purchase and sale of Gur.**—(1) No person other than a licensed dealer shall carry on the business of purchase and sale of gur.

(2) No dealer shall hold stocks of gur for a period of exceeding seven days from the date of receipt by him of such stocks of gur.

(3) No dealer shall hold any stock of gur in excess of two hundred and fifty quintals at any time.

4. **Power of entry, search seizure and inspection.**—An officer, not below the rank of an Inspecting Officer/Inspector of the Central Government or of the State Government duly authorised by the Central Government may, with a view to ensuring compliance of the provisions of this Order ;—

(a) enter, search and inspect any place, vehicle or vessel ;

(b) seize any stock of gur ;

(c) inspect and seize any books of accounts and other relevant documents belonging to the dealer.

if he has reason to believe that any provision of this Order has been or is being or is about to be contravened and thereafter take or authorise the taking of all measures necessary for securing the production of stocks or books and documents so seized before the Collector having jurisdiction under the provisions of the Essential Commodities Act, 1955 (10 of 1956), for their taking action against all concerned.

(2) The provisions of Section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be applied to searches and seizures under this Order.

5. **Power to call for information.**—The Central Government or an officer of the Central Government or a State Government, duly authorised by the Central Government in this behalf may, with a view to ensuring compliance of the provisions of this Order, require any dealer to maintain proper accounts of purchase, sale and storage of Gur and furnish such information, return or report in respect of stocks, supply and storage of Gur, as may be deemed proper and necessary.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 330, dated 12th August, 1994.

MINISTRY OF FINANCE

Notl. No. G.S.R. 634(E), No. 3/94-Foreign Travel Tax —(*Dated August 12, 1994.*—In exercise of the powers conferred by sub-section (1) of Section 35A of the Finance Act, 1979 (21 of 1979), the Central Government hereby specifies the rate of interest at twenty per cent per annum for the purposes of the said sub-section

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Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 343, dated 12th August, 1994.

MINISTRY OF FINANCE

Notl. No. G.S.R. 637(E), No. 4/94-Inland Air Travel Tax—*(Dated August 12, 1994)*.—In exercise of the powers conferred by sub-section (1) of **Section 43-A of the Finance Act, 1989** (13 of 1989), the Central Government hereby specifies the rate of interest at twenty per cent per annum for the purposes of the said sub-section.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 294, dated 12th July, 1994.

MINISTRY OF ENVIRONMENT AND FORESTS

No. G.S.R. 569 (E).— *(Dated 5th July, 1994)* —In exercise of the powers conferred by Section 64 of the Air (Preventive and Control of Pollution) Act, 1981 (14 of 1981), the Central Government in consultation with the Central Pollution Control Board, hereby makes the following rules further to amend the Air (Prevention and Control of Pollution) (Union Territories) Rules, 1983, namely :—

1. (1) **These rules may be called the Air (Prevention and Control of Pollution) (Union Territories) Amendment Rules, 1994.**

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Air (Prevention and Control of Pollution) (Union Territories) Rules, 1983, for the proviso to Rule 5, the following provisos shall be substituted, namely :—

"Provided that the Chairman shall not appoint any person as Consultant without the prior approval of the Central Government if the Board recommends that the total emoluments or fee payable exceeds rupees five thousand per month :

Provided further that if a retired Government Officer is appointed as Consultant his emoluments or fee shall be regulated in accordance with the instructions/orders issued by the Central Government in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) from time to time.".

Published in the Gazette of India, Extraordinary, Part-II, Section 3(i), No. 248, dated 15th June, 1994.

MINISTRY OF RAILWAY

No. G.S.R. 509(E).—*(Dated June 15th, 1994)*.— In exercise of the powers conferred by clauses (c), (e), (f) and (g) of sub-section (2) of Section 30 of the Railway Claims Tribunal Act, 1987 (54 of 1987), the Central Government hereby makes the following rules further to amend the Railway Claims Tribunal (Procedure) Rules, 1989, namely ;—

1. (a) These rules may be called **the Railway Claims Tribunal (Procedure) Amendment Rules, 1994.**

(b) They shall come into force on the date of their publication in the Official Gazette.

2. For Rule 4 of the Railway Claims Tribunal (Procedure) Rules, 1989, the following rule shall be substituted, namely ; —

"4. **Language of the Claims Tribunal.**—(1) The pleadings before the Claims Tribunal may, at the opinion of the respective parties, be either in English or in Hindi.

(2) All orders and judgments of the Claims Tribunal may, at the option of the Claims Tribunal, be either in Hindi or in English.".

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 339, dated 12th August, 1994.

MINISTRY OF FINANCE

Noti. No. G.S.R. 633(E) No. 2/94-Foreign Travel Tax.—*(Dated August 12, 1994).*—In exercise of the powers conferred by Section 97 of the Finance Act, 1994), the Central Government hereby appoints the 1st September, 1994, as the date on which the provisions of the said **Section 97 Amending Foreign Travel Tax shall come into force.**

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 342, dated 12th August, 1994.

MINISTRY OF FINANCE

Noti No. G.S.R. 636(E). No. 3/94-Inland Air Travel Tax.—*(Dated August 12, 1994).*—In exercise of the powers conferred by Section 98 of the Finance Act, 1994 (32 of 1994), the Central Government hereby appoints the 1st September, 1994, as the date on which the provisions of the said **Section 98 Amendment to Inland Air Travel Tax** shall come into force.

Published in the *Gazette* of India, Extraordinary, Part II, Section 3 (i), No. 318, dated 3rd August, 1994.

MINISTRY OF INFORMATION AND BROADCASTING

No. G.S.R. 603 (E).—*(Dated 3rd August, 1994).*—In exercise of the powers conferred by the Cinematograph Act, 1952 (37 of 1952), the Central Government hereby makes the following rules further to amend the Cinematograph (Certificate) Rules, 1983, namely :—

1. Short title and commencement.—(1) These rules may be called the **Cinematograph (Certification) (Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Cinematograph (Certification) Rules, 1983,—

(1) In Rule 22,—

(a) in sub-rule (2),—

(i) in clause (a), after the words "examining officer", the following words shall be inserted, namely :—

"either of whom shall be a woman ;" ;

(ii) in clause (b), after the words "examining officer", the following words shall be inserted, namely :—

"of whom two persons shall be women ;" ;

(b) in sub-rule (14), after the word "four", the following shall be added, namely :—

"of whom at least two persons shall be women."

(2) In the Cinematograph (Certification) Rules, 1983, in Rule 22, in sub-rule (2), after the first proviso, the following proviso shall be added, namely :—

"Provided further that in the Examining Committee, in a case falling under clause (a) one member shall be a woman and in a case falling under clause (b) two members shall be a women.".

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 403, dated 12th August, 1994.

MINISTRY OF WELFARE

No. S.O. 591 (E).—*(Dated 12th August, 1994).*—In exercise of the powers conferred by sub section (3) of section (1) of the **National Commission for Safai Karamchari Act, 1993** (54 of 1993), the Central Government hereby appoints the 12th day of August, 1994 as the date on which the provisions of the said Act shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 362, dated 16th July, 1994.

MINISTRY OF RAILWAYS

No. S O. 530 (E).—*(Dated 16th July, 1994).*—In exercise of the powers conferred by sub-section (2) of section 1 of the **Railways (Amendment) Act, 1994** (28 of 1994), the Central Government hereby appoints the 1st August, 1994 the date on which the Act shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 360, dated 15th July, 1994.

MINISTRY OF FINANCE

No. S.O. 528 (E).—*(Dated 15th July, 1994).*—In exercise of the powers conferred by sub-section (2) of section 1 of the **Banking Companies (Acquisition and Transfer of Undertakings) Amendment Act, 1994** (37 of 1994), the Central Government hereby appoints the 15th day of July, 1994, as the date on which the provisions of the said Act, except sections 6 and 14 shall come in force.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 269, dated 31st May, 1994.

MINISTRY OF URBAN DEVELOPMENT

No. S.O. 417 (E).—*(Dated 31st May, 1994).*—In exercise of the powers conferred by sub-section (2) of section 1 of the **Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1993** (7 of 1994), the Central Government appoints the 1st day of June, 1994 as the date on which the said Act shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 308, dated 20th June, 1994.

MINISTRY OF HOME AFFAIRS

No. S.O. 457 (E).—*(Dated 20th June, 1994).*—In pursuance of clause (1) of Article 239 of the Constitution, the President hereby directs that the powers of the Central Government under section 38-A of the **Delhi Rent Control Act, 1958** (59 of 1958) shall, subject to the control of the President and until further orders, be exercised by the Lieutenant Governor of the National Capital Territory of Delhi.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 226, dated 28th May, 1994.

MINISTRY OF HOME AFFAIRS

No. S.O. 414 (E).—*(Dated 28th May, 1994).*—In exercise of the powers

conferred by sub-section (2) of section 1 of the Indo-Tibetan Border Police Force Act, 1992 (35 of 1992), the Central Government hereby appoints the 30th day of May, 1994, as the date on which the said Act shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 536, dated 1st July, 1994.

MINISTRY OF HOME AFFAIRS

No. S.O. 491 (E).— (*Dated July 1, 1994*).— In exercise of the powers conferred by sub-section (2) of section 1 of the Central Laws (Extension to Arunachal Pradesh) Act, 1993 (44 of 1993), the Central Government hereby appoints the 1st day of July, 1994 as the date on which the said Act shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 270, dated 31st May, 1994.

MINISTRY OF CIVIL SUPPLIES AND CONSUMER AFFAIRS

S.O. 418 (E).— (*Dated 31st May, 1994*).— In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order further to amend the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Order, 1977, namely :—

1. (1) This Order may be called the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Third Amendment Order, 1994.

(2) It shall come into force from the 1st day of July, 1994.

2. In the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Order, 1977, for Clause 7, the following clause shall be substituted, namely :—

"Order not to apply in certain cases.—Nothing in this order shall apply to :—

(i) a Corporation or a Company owned or controlled by the Central Government or a State Government or a Statutory Corporation, or

(ii) a Central level or a State level cooperative society,

engaged in the production, procurement, sale, purchase or distribution of pulses."

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 264, dated 27th May, 1994.

MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS

S.O. 396 (E).— (*Dated 27th May, 1994*).—In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following order further to amend the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Order, 1977, namely :—

1. (1) This Order may be called the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Second Amendment Order, 1994,

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Pulses, Edible Oilseeds and Edible Oils (Storage Control) 1977, in clause 4, in sub-clause (1), after the last proviso the following pro-

viso shall be inserted, namely :—

"Provided also that the stock limits referred to above shall not apply to imported edible vegetable palmolein oil.".

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 352, dated 17th October, 1994.

MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS

G S.R. 752 (E).—*(Dated 17th October, 1994).*—In exercise of the powers conferred by sub-section (2-A) of section 217 read with clause (a) of sub-section (1) of section 642 of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following rules further to amend the Companies (Particulars of Employees) Rules, 1975, namely :—

1. (1) These rules may be called **the Companies (Particulars of Employees) (Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 1A of the Companies (Particulars of Employees) Rules, 1975,—

(a) in clause (a), for the words "one lakh forty-four thousand", the words "three lakhs" shall be substituted ;

(b) in clause (b), for the words "twelve thousand", the words "twenty-five thousand" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 357, dated 30th August, 1994

MINISTRY OF FINANCE

G.S.R. 653 (E).—*(Dated 5th July, 1994),*—In exercise of the powers conferred by section 3 of **the Recovery of Debts Due to Banks and Financial Institutions Act, 1993** (51 of 1993), the Central Government hereby establishes the Debts Recovery Tribunal at the places mentioned in column (2) of the Table below, to exercise jurisdiction within the areas in the corresponding entry in column (3) of the said Table.

TABLE

Sl. No.	Place at which Tribunal is established	Areas of jurisdiction
1	2	3
1.	3rd Floor, Vikrant Tower, Rajendra Place, New Delhi	Delhi

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 357, dated 30th August, 1994.

MINISTRY OF FINANCE

No. G.S R. 654 (E).—*(Dated 12th July, 1994).*—In exercise of the powers conferred by section 8 of **the Recovery of Debts Due to Banks and Financial Institutions Act, 1993** (51 of 1993), the Central Government hereby establishes the Debts Recovery Appellate Tribunal at the place mentioned in

column (2) of the Table below, to exercise jurisdiction within the areas specified in the corresponding entry in column (3) of the said Table.

TABLE

Sl. No.	Place at which Tribunal is established	Areas of jurisdiction
1	2	3
1.	1st Floor, Manzil-e-e- Mohd., Bombay-8.	Areas covered by the Debts Recovery Tribunals established or to be established under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 357, dated 30th August, 1994.

MINISTRY OF FINANCE

No. G.S.R. 655 (E).—(*Dated 30th August, 1994*).—In exercise of the powers conferred by section 3 of the **Recovery of Debts Due to Banks and Financial Institutions** Act, 1993 (51 of 1993), the Central Government hereby establishes the Debts Recovery Tribunal at the place mentioned in column (2) of the Table below, to exercise jurisdiction within the areas specified in the corresponding entry in column (3) of the said Table.

TABLE

Sl. No.	Place at which Tribunal is established	Areas of jurisdiction
1	2	4
1.	Nehru Place Complex, Tonk Road, Jaipur.	Rajasthan, Himachal Pradesh, Haryana, Punjab and U.T. Chandigarh.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 360, dated 15th July, 1994.

MINISTRY OF FINANCE

S.O. 578 (E).—(*Dated 15th July, 1994*).—In exercise of the powers conferred by sub-section (2) of section 1 of the **Banking Companies (Acquisition and Transfer of Undertakings) Amendment Act, 1994** (37 of 1994), the Central Government hereby appoints the 15th day of July, 1994, as the date on which the provisions of the said Act, except sections 6 and 14, shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), dated 12th October, 1994.

MINISTRY OF FINANCE

No. G.S.R. 749 (E).—(*Dated 12th October, 1994*).—Whereas certain draft rules further to amend the Securities Contracts (Regulation) Rules, 1957, were published as required by sub-section (1) of section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), in the Gazette of India, Extraordinary, Part II, Section 3, sub section (i), dated 15th July, 1994, under notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. G.S.R. 588(E), dated 15th July, 1994, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of 45 days from the date on which the copies of the Gazette of India in which the said notification was published were made available to the public ;

And whereas the copies of the said Gazette were made available to the public on 25th August, 1994.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 30 of the said Act, the Central Government hereby makes the following rules further to amend the Securities Contracts (Regulation) Rules, 1957, namely ; —

1. (1) These rules may be called the **Securities Contracts (Regulation) (Second Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Securities Contracts (Regulation) Rules, 1957, in rule 8, in clause (4A), sub-clause (iii) shall be omitted.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), dated 26th October, 1994.

MINISTRY OF FINANCE

No. G.S.R. 780 (E).—(*Dated 26th October, 1994*).—Whereas certain draft rules further to amend the Securities Contracts (Regulation) Rules, 1957, were published as required by sub-section (1) of section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), in the Gazette of India, Extraordinary, Part II, Section 2, sub section (i), dated 5th August, 1994, under notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) G.S.R. 608 (E), dated 5th August, 1994, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of 45 days from the date on which the copies of the Gazette of India in which the said notification was published were made available to the public ;

And whereas the copies of the said Gazette were made available to the public on 31st August, 1994 ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 30 of the said Act, the Central Government hereby makes the following rules further to amend the Securities Contracts (Regulation) Rules, 1957, namely :—

1. (1) These rules may be called the **Securities Contracts (Regulation) (Third Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Securities Contracts (Regulation) Rules, 1957 :—

(a) in the marginal heading of rule 10, for the words "Government nominees", the words "Nominees of the Securities and Exchange Board of India" shall be substituted ; and

(b) in rule 10, for the words "The Central Government", the words "The Securities and Exchange Board of India" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3(1), dated 7th November, 1994.

MINISTRY OF FINANCE

No. G.S.R. 790(E).—*(Dated 7th November, 1994)*.—Whereas certain draft rules further to amend the Securities Contracts (Regulation) Rules, 1957, were published as required by sub-section (1) of section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), dated 7th July, 1994, under notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. G.S.R. 563 (E), dated 7th July, 1994, inviting objections and suggestions from all persons likely to be affected thereby before the expiry of 45 days from the date on which the copies of the Gazette of India in the said notification was published were made available to the public ;

And whereas the copies of the said Gazette were made available to the public on 22nd July, 1994, and no objections or suggestions have been received from the public on the said draft ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 30 of the said Act, the Central Government hereby makes the following rules further to amend the Securities Contracts (Regulation) Rules, 1957, namely :—

1. (1) These rules may be called the **Securities Contracts (Regulation) (Fourth Amendment) Rules, 1994**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Securities Contracts (Regulation) Rules, 1957, in rule 8, in clause (4A), in sub-clause (iv), for the words, brackets, figure and letter "clause (1) [except sub-clause (f) thereof] or clause (3) [except sub-clause (f) thereof]" the words, brackets, figures and letters" clause (1) [except sub-clause (b) and sub-clause (f) thereof] or clause (3) [except sub-clause (a) and sub-clause (f) thereof]" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), dated 7th November, 1994.

SECURITIES AND EXCHANGE BOARD OF INDIA

No. SEBI-LE/5916/94.—*(Dated 4th/7th November, 1994)*.—In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby, with the previous approval of the Central Government, makes the following regulations, namely :—

CHAPTER 1

Preliminary

1. Short title and commencement.—(1) These regulations shall be called the Securities and Exchange Board of India (Substantial Acquisition of

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Shares and Takeovers) Regulations, 1994.

(2) These regulations shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.**—(1) In these regulations, unless the context otherwise requires :—

(a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992) ;

(b) "acquirer" means any person who acquires or agrees to acquire shares in a company either by himself or with any person acting in consert with the acquirer ;

(c) "investigating officer" means any officer of the Board, or any other person, having experience in dealing with the problems relating to the securities market, and such person is authorised by the Board under Chapter V of these regulations ;

(d) "person acting in concert" comprises persons who, pursuant to an agreement or understanding acquires or agrees to acquire shares in a company for a common objective or purpose of substantial acquisition of shares and includes :

(i) a company, its holding company, or subsidiaries of such companies or companies under the same management either individually or all with each other ;

(ii) a company with any of its directors, or any person entrusted with the management of the funds of the company ;

(iii) directors of companies, referred to in clause (i) and his associates and

(iv) mutual fund, financial institution, merchant banker, portfolio manager and any investment company in which any person has an interest as director, fund manager, trustee, or as a shareholder having not less than 2 per cent. of the paid-up capital of that company.

Explanation.—For the purposes of this clause "associate" means :—

(A) Any relative of that person within the meaning of section 6 of the Companies Act, 1956 (1 of 1956) ;

(B) the director or his relative whether individually or in the aggregate holding more than 2 per cent. of the paid-up equity capital of such company.

(e) "public financial institution" means a public financial institution as defined in section 4A of the Companies Act, 1956 ;

(f) "sick industrial company" shall have the same meaning assigned to it in clause (o) of sub-section (1) of section 3 of the Sick Industrial Companies (Special Provisions) Act, 1985 ;

(g) "State level financial institution" means a State financial corporation established under section 3 of the State Financial Corporations Act, 1951 and includes industrial development corporation established as a company by a State Government with the object of development of industries or agricultural activities in the State ;

(h) "stock exchange" means a stock exchange which has been granted recognition under section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956).

(i) "shares" means share in the share capital of a company carrying voting rights and includes any security which would entitle the holder to receive shares with voting rights.

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(2) All other expressions unless defined herein shall have the same meaning as have been assigned to them under the Act or the Companies Act, 1956, or the Securities Contracts (Regulation) Act, 1956, as the case may be.

3. **Applicability of the regulation.**—Nothing contained in Chapter III of these regulations shall apply to acquisition of shares ;

(a) by allotment in pursuance of an application made under a public issue ;

(b) in pursuance of any underwriting arrangement ;

(c) in the ordinary course of business by a registered stock-broker of a stock exchange on behalf of clients ;

(d) in companies whose shares are not listed on any stock exchange ;

(e) pursuant to a scheme of arrangement or amalgamation under sections 391 and 394 of the Companies Act, 1956 ;

(f) pursuant to a scheme framed under section 18 the Sick Industrial Companies (Special Provisions) Act, 1985.

4. **Power of the Board to grant exemption.**—The Board may after considering all the relevant factors such as family arrangements amongst promoters or re-organisation of the company where more than 10 per cent. of the voting rights of shares are acquired by the existing shareholders of that company or any of its holding company or of a company under the same management, may pass an order of exemption from the provisions of Chapter III after recording the reasons in writing for grant of such exemption.

CHAPTER II

Disclosures of shareholding

5. **Transitional provision.**—(1) Any person, who holds more than 5 per cent shares in any company, shall within two months of the notification of these regulations disclose his aggregate shareholding in that company,

(a) to all the stock exchanges on which the shares of the said company are listed and

(b) to the aforesaid company.

(2) Every company whose shares are held by the persons referred to in sub-regulation (1) shall disclose to the stock exchange within two months from the date of notification of these regulations the aggregate number of shareholdings of each of the acquirer referred to above.

6. **Acquisition of 5 per cent. and more shares of a company.**—(1) Any acquirer, who holds 5 per cent. or less than 5 per cent. shares in a company and acquires more than 5 per cent. shares :—

(a) in pursuance of a public issue, or

(b) by one or more transactions, or

(c) in any other manner not covered by (a) and (b) above,

shall disclose the aggregate of his shareholding in that company to the company and to all the stock exchanges where the shares are listed.

(2) The disclosures mentioned in sub-regulation (1) shall be made within four working days of—

(a) the receipt of intimation of allotment of shares in respect of shares acquired under clause (a) of sub-regulation (1) or ;

(b) the acquisition of shares, as the case may be.

(3) Every company, whose shares are acquired as referred to in sub-regulation (1), shall disclose to all the stock exchanges, where the shares are listed the aggregate shareholdings of that company of all such persons

within seven days of the receipt of information under sub-regulation (1).

7. **Disclosures to the Board.**—The stock exchanges shall furnish to the Board reports of the disclosures made under regulations 5 and 6 as and when required by the Board.

8. **Continual disclosures.**—(1) Every acquirer, including a person covered under regulation 5 who holds more than 10 per cent. shares in any company, shall make half-yearly disclosures to the stock exchanges, on which the shares are listed in respect of his holdings as on March 31 and September 30, each year.

(2) The obligation to make disclosures under sub-regulation (1) shall continue till such time as the shareholdings in the company are either reduced to 10 per cent. or increased upto 75 per cent. of the voting rights of the company.

CHAPTER III
Takeovers

9. **Acquisition of 10 per cent. or more of the shares of any company through negotiation.**—(1) Any acquirer who holds shares carrying 10 per cent. or less of voting rights in the capital of the company shall not through negotiations acquire any further shares, which, when taken together with his existing shareholdings would carry more than 10 per cent. of the voting rights, unless, the acquirer makes a public announcement to acquire shares at a minimum offer price from the other shareholders of the company in accordance with these regulations, or

(2) Any acquirer who on the date of commencement of these regulations, holds shares in a company which carry more than 10 per cent. of the voting rights in the capital of the company, shall not acquire any further shares through negotiations unless the acquirer makes a public announcement to acquire shares at a minimum offer price from the other shareholders of the company in accordance with these regulations.

(3) Where an acquirer acquires securities which would entitle him more than 10 per cent. of the voting rights together with voting rights on shares already held by him, then, such person shall make a public announcement referred to in sub-regulation (1) at the time immediately before his entitlement to obtain voting rights on such securities.

(4) Nothing in sub regulation (2) shall apply to any person, who on the date of the coming into force of these regulations holds shares carrying more than 10 per cent. of the voting rights in the capital of a company, if he has already complied with the provisions of clause 40A and clause 40B of the listing agreement of any stock exchange.

10. **Acquisition of 10 per cent. or more of the shares of any company through open market purchases.**—(1) An acquirer, who holds shares carrying 10 per cent. or less of voting rights in the capital of the company shall not acquire any further shares in the company from the open market which when taken together with his existing shareholdings, would carry more than 10 per cent. of the voting rights, unless such acquirer makes public announcement of intention to acquire shares in the open market in accordance with these regulations.

(2) An acquirer who on the date of commencement of these regulations holds shares which carry more than 10 per cent. of the voting rights in the capital of the company, shall not acquire any further shares in the company,

from the open market unless such acquirer makes a public announcement of intention to acquire shares in the open market in accordance with the regulations.

11. **Who should make the public announcement of offer.**—Before making any public announcement of offer referred to in regulation 9 or regulation 10, the acquirer shall appoint a merchant banker holding a certificate of registration given by the Board.

12. **Public announcement of offer.**—A public announcement to be made under regulation 9 or 10 shall be made in at least one national English daily and one vernacular newspaper of that place, where the shares of the company are listed and most frequently traded.

13. **Timing of the public announcement of offer under regulation 9.**—The public announcement referred to in regulation 9 shall be made not later than four days of either the finalisation of the negotiation, or entering into an agreement or memorandum of understanding to acquire shares, whichever is earlier.

14. **Timing of the public announcement of intention under regulation 10.**—A public announcement of intention to acquire shares referred to in regulation 10 shall be made either immediately before the acquisition of any shares, which would increase the existing shareholdings of the person making the announcement beyond 10 per cent. or in case his existing shareholding is already 10 per cent., any time before the person seeks to acquire any shares in order to increase his existing shareholding.

15. **Contents of the public announcement of offer.**—A public announcement referred to in regulation 9 or 10 shall contain the following particulars, namely :—

(i) the object and terms of offer including the price at which the shares are being sought to be acquired ;

(ii) the identity of the ultimate person seeking to acquire shares ;

(iii) details of the existing holdings of the person acquiring shares together with those of persons acting in concert with him ;

(iv) details of shareholdings in respect of which the person acquiring shares has entered into an agreement or memorandum of understanding to acquire the shares ;

(v) intention of acquisition of shares ;

(vi) the record date and the date by which individual letter of offers would be posted to the shareholder and the manner and the date by which the acceptance or otherwise of offer should be communicated ;

(vii) the time and manner of payment of consideration for acquisition of shares ;

(viii) all conditions subject to which the offer is made including the following conditions, namely :—

(a) the total number of shares to be acquired from the public, subject to a minimum as specified in regulation 21 ;

(b) the statutory approvals under the Companies Act, 1956 (1 of 1956), Monopolies and Restrictive Trade Practices Act, 19 9 (54 of 1969), and Foreign Exchange Regulation Act, 1973 (46 of 1973), required to be obtained for the purpose of acquiring the shares, and

(c) approvals to be obtained from shareholders of the company of which the shares are being acquired ;

(ix) such other information in the investors' interest having a bearing on the substantial acquisition of shares.

16. **Brochures, advertising material etc.**—(1) The public announcement of offer or any other advertisement, circular, brochure of publicity material issued in relation to the acquisition of shares shall contain information essential for the shareholder to make an informed decision on the offer made.

(2) Copies of any advertisement, brochure or document issued to the public under sub-regulation (1) shall be submitted to the Board at least twenty-four hours before its issuance.

17. **Letter of offer.**—(1) Within fourteen days of the public announcement made under regulation 9 or 10, the acquirer shall through a merchant banker submit the draft of a letter of offer to the Board for its approval.

(2) The acquirer shall along with the letter of offer referred to in sub-regulation (1) make payment of a fee to the Board of a sum of Rs. 25,000 payable either by cheque or bank draft in favour of the Securities and Exchange Board of India at Bombay.

(3) The merchant banker shall submit a due diligence certificate to the Board stating that the statements made in any document, advertisement or brochure issued to the public contains statements, which are true to the best of his or its knowledge.

18. **Record date.**—(1) The letter of offer shall be sent to all the shareholders of the company whose shares are sought to be acquired and whose names appear on the books of the company as on the record date.

(2) The record date shall be not more than the sixtieth day from the date of the first public announcement.

19. **Minimum offer price.**—(1) An offer to acquire shares under regulation 9 or regulation 10 shall be made at a minimum offer price which shall be—

(a) payable in cash ; or,

(b) by exchange of shares if the person seeking to acquire the shares is a body corporate ; or

(c) a combination of (a) and (b) :

Provided that where the agreement or any memorandum of understanding stipulates payment in cash to any class of shareholders, whose shares are being acquired, the remaining shareholders shall also be paid in cash for the shares offered by them for sale of their shares.

(2) For the purposes of sub-regulation (1), the minimum offer price shall be :—

(a) in case of acquisition of shares under regulation 9, the negotiated price or the average of the weekly high and low of the closing prices of the shares as quoted on the stock exchange during the last six months preceding the date of announcement, whichever is higher, provided there has been a market for such shares during that period in that stock exchange ;

(b) in case of acquisition of shares under regulation 10, the highest price paid by the acquirer in the open market or the average of the weekly high and low of the closing prices of the shares as quoted on the stock exchange during the last six months preceding the date of announcement, whichever is higher, provided there has been a market for such shares during that period in that stock exchange ;

(c) where there has been no continuous market in the stock exchange for the share to be acquired, such average shall be calculated on the basis of weighted average prices quoted in at least one other stock exchange to be

determined on the basis of the daily trading volume of such shares in that exchange or in any other reasonable manner with the prior approval of the Board ;

(d) in case where the shares of the company are offered in lieu of cash payment, the value of such shares shall be determined in the same manner as mentioned in clauses (a) and (b) as the case may be.

20. **General obligations.**—(1) The announcement of public offer to acquire shares shall be made only when the acquirer has every reason to believe that he shall be able to implement the offer.

(2) Within fourteen days of the public announcement of offer, the acquirer must also submit a letter of offer to the board of directors of the company, whose shares are being acquired.

(3) The acquirer shall state the period for which the offer to acquire shares from the other shareholders shall remain open :

Provided that every such offer shall be kept open for a period of not less than four weeks from the date of the offer.

(4) The directors of the company of which the shares are being acquired shall not sell or enter into an agreement for sale of assets not being sale or disposal of assets, in the ordinary course of business, of the company or its subsidiaries or issue any authorised but unissued securities carrying voting rights during the period, when the offer is open for acceptance unless the approval of the general body of shareholders is obtained.

(5) Every document issued to shareholders or any advertisement published in connection with the offer must state that the directors in case the acquirer, is a company, accept the responsibility for the information contained in the document or advertisement :

Provided that if any of the directors desire to exempt himself from the responsibility of the information in such document or as the case may be, the advertisement, document or, advertisement, as the case may be, shall contain a statement to that effect together with reasons thereof.

(6) The company whose shares are being acquired shall furnish to the acquirer, within seven days of the request of the acquirer, a list of names of shareholders and of those persons whose applications for transfer of registration are considered valid and accepted by the company.

(7) The company whose shares are being acquired, shall also inform the persons whose applications for transfer are considered valid within sixty days and also inform about such transfers to the transferor and transferee, so that they have an opportunity to accept the offer,

(8) The letter of offer shall be sent to all the shareholders so as to reach them within ten days from the record date.

(9) Any acquirer who has made any acquisition of shares either by negotiation or through open market purchases shall not make any further public announcement for acquisition of shares in the succeeding six months.

21. **Minimum number of shares to be acquired.**—(1) Subject to sub-regulation (2), the offer shall be made to acquire shares from each of the shareholders, such number of shares, which shall not be less than the minimum marketable lot as determined by the stock exchange in which these shares are listed, or the entire holding if it is less than the marketable lot.

(2) The public offer shall be made to the remaining shareholders of the company, to acquire from them an aggregate minimum of 20 per cent. of the

PART II
INDIAN PARLIAMENT ACTS, 1994 & CONSTITUTIONAL AMENDMENTS

1995

THE MOTOR VEHICLES (AMENDMENT) ACT, 1994

The following Act of Parliament received the assent of the President on the 10th September, 1994, and was published in the Gazette of India, Part II, Sec. 1, No. 71 dated September 12, 1994/Bhadra 21, 1916.

[10th September, 1994]

INDIAN PARLIAMENT ACT NO. 54 OF 1994

An Act further to amend the Motor Vehicles Act, 1988.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :-

1. **Short title and commencement**—(1) This Act may be called the Motor Vehicles (Amendment) Act, 1994.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint; and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

NOTES

Statement of Objects and Reasons—The Motor Vehicles Act, 1939 (4 of 1939), consolidates and amends the law relating to motor vehicles. This has been amended several times to keep it up to date. The need was, however, felt that this Act should, now *inter alia,* take into account also changes in the road transport technology, pattern of passenger and freight movements, development of the road network in the country and particularly the improved techniques in the motor vehicles management.

Various Committees like National Transport Policy Committee, National Police Commission, Road Safety Committee, Low Powered Two-wheelers Committee, as also the Law Commission have gone into different aspects of road transport. They have recommended updating, simplification and rationalization of this law. Several Members of Parliament have also urged for comprehensive review of the Motor Vehicles Act, 1939, to make it relevant to the modern-day requirements.

A Working Group was, therefore, constituted in January, 1984 to review all the provisions of the Motor Vehicles Act, 1939 and to submit draft proposals for a comprehensive legislation to replace the existing Act. This Working Group took into account the suggestions and recommendations earlier made by various

bodies and institutions like *Central Institute of Road Transport, Automotive Research Association of India*, and other transport organisations including the manufacturers and the general public. Besides, obtaining comments of State Governments on the recommendations of the Working Group, these were discussed in a specially convened meeting of Transport Ministers of all States and Union Territories. Some of the more important modifications so suggested related for taking care of–

(a) the fast increasing number of both commercial vehicles and personal vehicles in the country;

(b) the need for encouraging adoption of higher technology in automotive sector;

(c)the greater flow of passenger and freight with the least impediments so that islands of isolations are not created leading to regional or local imbalances;

(d) concern for road safety standards, and pollution-control measures, standards for transportation of hazardous and explosive materials;

(e) simplification of procedure and policy liberalizations for private sector operations in the road transport field; and

(f) need for effective ways of tracking down traffic offenders.

The Supreme Court in *M.K. Kunhimohammed v. P.A. Ahmedkutty*, (1987)4 S.C.C 284; A.I.R. 1987 S.C. 2158, has made certain suggestions to raise the limit of compensation payable as a result of motor accidents in respect of death and permanent disablement in the event of there being no proof of fault on the part of the person involved in the accident and also in hit and run motor accidents and to remove certain disparities in the liability of the insurer to pay compensation depending upon the class or type of vehicles involved in the accident. The above suggestions made by the Supreme Court have been incorporated in the Bill.

The proposed legislation has been prepared in the light of the above background. Some of the more important provisions of the Bill provide for the following matters, namely–

(a) rationalization of certain definitions with additions of certain new definitions of new types of vehicles;

(b) stricter procedures relating to grant of driving licences and the period of validity thereof;

(c) laying down of standards for the components and parts of motor vehicles;

(d) standards for anti-pollution control devices;

(e) provision for issuing fitness certificates of vehicles also by the authorised testing stations;

(f) enabling provision for updating the system of registration marks;

(g) liberalised schemes for grant of stage carriage permits on non-nationalised routes, All-India Tourist Permits and also national permits for goods carriages;

(h) administration of the Solatium Scheme by the General Insurance Corporation;

(i) provision for enhanced compensation in cases of "no fault liability" and in "hit and run" motor accidents;

(j) provision for payment of compensation by the insurer to the extent of actual liability of the victims of motor accidents irrespective of the class of vehicles;

payment of such fee as may be prescribed, for a period of five years from the date of such issue or renewal;".

10. **Amendment of Section 26**—In section 26 of the principal Act, in sub-section (2), for the words "printed copy", the words "printed copy or copy in such other form as the Central Government may require" shall be substituted.

11. **Amendment of Section 41**—In section 41 of the principal Act, in sub-section (14), for the words "original registering authority", the words "last registering authority" shall be substituted.

12. **Amendment of Section 43**—In section 43 of the principal Act, :-

(a) in the proviso to sub-section (2), for the words "with a body", the words "with a body or any unforeseen circumstances beyond the control of the owner" shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:-

"(3) In a case where the motor vehicle is held under hire-purchase agreement, lease or hypothecation, the registering authority or other prescribed authority shall issue a temporary certificate of registration of such vehicle, which shall incorporate legibly and prominently the full name and address of the person with whom such agreement has been entered into by the owner.".

13. **Amendment of Section 48**—In section 48 of the principal Act, after sub-section (5), the following sub-section shall be inserted, namely :-

"(6) The owner of the vehicle shall also inform at the earliest, in writing, the registering authority about the theft of his vehicle together with the name of the police station where the theft report was lodged, and the registering authority shall take into account such report while disposing of any application for no objection certification, registration, transfer of ownership or issue or duplicate registration certificate.".

14. **Amendment of Section 51**—In section 51 of the principal Act, -

(a) in sub-section (2), -

(i) for the words "original registering authority", the words "last registering authority" shall be substituted;

(ii) the following shall be added at the end, namely :-

"and an intimation in this regard shall be sent to the original registering authority if the last registering authority is not the original registering authority" ;

(b) in sub-section (3), -

(i) for the words "original registering authority", the words "last registering authority" shall be substituted;

(ii) the following shall be added at the end, namely :-

"and an intimation in this behalf shall be sent to the original registering authority if the last registering authority is not the original registering authority";

(c) in sub-section (5), after the words "taken possession of the vehicle", the words "from the registered owner" shall be inserted;

(d) in sub-section (6), for the words and figures "under section 47, make an application", the words and figures "under section 47, or removal of the vehicle to another State, or at the time of conversion of the vehicle from one class to another, or for issue of no objection certificate under section 48, or for change of residence or place of business under section 49, or for the alteration of the vehicle under section 52, make an application shall be substituted;

(e) in sub-section (10), after the word "communicate", the words "by registered post acknowledgment due" shall be inserted;

(f) for sub-section (11), the following sub-sections shall be substituted, namely :-

"(11) A registering authority registering the new vehicle, or issuing the duplicate certificate of registration or a no objection certificate or a temporary certificate of registration, or issuing or renewing, a fitness certificate or substituting entries relating to another motor vehicle in the permit, shall intimate the financier of such transaction.

(12) The registering authority where it is not the original registering authority, when making entry under sub-section (1) or sub-section (2), or cancelling the said entry under sub-section (3) or issuing the fresh certificate of registration under sub-section (5) shall communicate the same to the original registering authority.".

15. **Amendment of Section 52**—In section 52 of the principal Act, -

(i) in sub-section (1), after the proviso, the following proviso shall be inserted, namely :-

"Provided further that modification of the engine, or any part thereof, of a vehicle for facilitating its operation by a different type of fuel or source of energy including battery, compressed natural gas, solar power or any other fuel or source of energy other than liquid petroleum gas shall be treated as an alteration but that shall be subject to such conditions as may be prescribed." ;

(ii) after sub-section (5), the following sub-section and Explanation shall be inserted, namely :-

'(6) No person holding a vehicle under a hire-purchase agreement shall make any alteration to the vehicle for which approval of the registering authority is required under sub-section (1), except with the written consent of the registered owner.

Explanation. - For the purposes of this section, "alteration" means a change in the structure of a vehicle which results in change in its basic feature.'.

16. **Amendment of Section 56**—In section 56 of the principal Act, after sub-section (4), the following proviso shall be inserted, namely :-

"Provided that no such cancellation shall be made by the prescribed authority unless such prescribed authority holds such technical qualification as may be prescribed or where the prescribed authority does not hold such technical qualification on the basis of the report of an officer having such qualifications.".

17. **Amendment of Section 57**—In section 57 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) Any person aggrieved by an order of the registering authority under section 41, 42, 43, 45, 47, 48, 49, 50, 52, 53, 55 or 56 may, within thirty days of the date on which he has received notice of such order, appeal against the order to the prescribed authority.".

18. **Amendment of Section 58**—In section 58 of the principal Act, in sub section (1), for the words "maximum safe laden weight", the words "maximum gross vehicle weight" shall be substituted.

19. **Amendment of Section 63**—In section 63 of the principal Act, in sub-section (2), after the words "shall supply to the Central Government", the words "if so desired by it" shall be inserted.

20. **Amendment of Section 66**—In section 66 of the principal Act, -

(i) in sub-section (2), the following proviso shall be added, namely :-

"Provided that the holder of a permit of any articulated vehicle may use the prime-mover of that articulated vehicle for any other semi-trailor." ;

(ii) in sub-section (3), for clause, the following clause shall be substituted, namely :-

"(l) to any motor vehicle which is operated by electric battery, compressed natural gas or solar energy.".

21. **Amendment of Section 67**—In section 67 of the principal Act, in sub-section (1), after clause (i), the following proviso shall be inserted, namely :-

"Provided that the fares and freights in respect of such stage carriages, contract carriages and goods carriages operated by battery, compressed natural gas or solar energy shall be fixed by the owner or operator;".

22. **Amendment of Section 68**—In section 68 of the principal Act, in sub-section (3), after clause (c), the following clause shall be inserted, namely :-

"(ca) Government to formulate routes for plying stage carriages;".

23. **Amendment of Section 71**—In section 71 of the principal Act, -

(a) the proviso to sub-section (1) shall be omitted ;

(b) in sub-section (3), in the proviso to clause (d), -

(i) in clause (ii), the word "or", occurring at the end, shall be omitted;

(ii) in clause (iii), the word "or", shall be inserted at the end, and after clause (iii) as so amended, the following clause shall be inserted, namely :-

"(iv) any other class or category of persons, as the State Government may, for reasons to be recorded in writing, consider necessary." ;

(c) sub-sections (4) and (5) shall be omitted.

24. **Amendment of Section 75**—In section 75 of the principal Act, in sub-section (1), for the words "motor cabs to persons desiring to drive the cabs", the words "motor cabs or motor cycles to persons desiring to drive either by themselves or through drivers, motor cab or motor cycles" shall be substituted.

25. **Amendment of Section 80**—In section 80 of the principal Act, for the words "Regional Transport Authority", wherever they occur, the words "Regional Transport Authority, state Transport Authority or any prescribed authority referred to in sub-section (1) of section 66", shall be substituted.

26. **Amendment of Section 81**—In section 81 of the principal Act, in sub-section (1), for the words "without renewal", the words "from the date of issuance or renewal thereof" shall be substituted.

27. **Amendment of Section 88**—In section 88 of the principal Act, -

(a) in sub-section (8), for the words "grant a special permit in relation to a vehicle covered", the words "grant a special permit to any public service vehicle including any vehicle covered" shall be substituted;

(b) in sub-section (9), for the word and figures "and 89", the words, brackets, letter and figures "clause (d) of sub-section (1) of section 87 and section 89" shall be substituted;

(c) sub-section (10) shall be omitted;

(d) in sub-section (12), for the word and figures "and 89", the words, brackets, letter and figures "clause (d) of sub-section (1) of section 87 and section 89" shall be substituted.

(e) sub-section (13) shall omitted.

28. **Amendment of Section 89**—In section 89 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) The State Government shall constitute such number of Transport Appellate Tribunals as it thinks fit and each such Tribunal shall consist of a judicial officer who is not below the rank of a District Judge or who is qualified to be a Judge of the High Court and it shall exercise jurisdiction within such area as may be notified by the Government.".

29. **Amendment of Section 91**—In section 91 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) The hours of work of any person engaged for operating a transport vehicle shall be such as provided in the Motor Transport Workers Act, 1961 (27 of 1961).".

30. **Amendment of Section 99**—In section 99 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :-

"(2) Notwithstanding anything contained in sub-section (1), when a proposal is published under that sub-section, then from the date of publication of such proposal, no permit shall be granted to any person, except a temporary permit during the pendency of the proposal and such temporary permit shall be valid only for a period of one year from the date of its issue or till the date of final publication of the scheme under section 100, whichever is earlier.".

31. **Amendment of Section 109**—In section 109 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :-

"(3) If the Central Government is of the opinion that it is necessary or expedient so to do in the public interest, it may by order published in the Official Gazette, notify that any article or process used by a manufacturer shall conform to such standard as may be specified in that order."

32. **Amendment of Section 110**—In section 110 of the principal Act, -

(a) in sub-section (1), -

(i) for clause (b), the following clause shall be substituted, namely :-

"(b) the size, nature, maximum retail price and condition of tyres, including embossing thereon of date and year of manufacture, and the maximum load carrying capacity;";

(ii) after clause (m), the following clauses shall be inserted, namely :-

"(n) installation of catalytic convertors in the class of vehicles to be prescribed;

(o) the placement of audio-visual or radio or tape recorder type of devices in public vehicles;

(p) warranty after sale of vehicle and norms therefor.".

33. **Amendment of Section 111**—In section 111 of the principal Act, in sub-section (2), -

(a) in clause (d), after the words "by prescribed authorities", the words "and fees to be charged for such test" shall be inserted;

(b) clause (g) shall be omitted.

34. **Amendment of Section 113**—In section 113 of the principal Act, in sub-section (1), for the words "heavy goods vehicles or heavy passenger motor vehicles", the words "transport vehicles" shall be substituted.

35. **Amendment of Section 114**—In section 114 of the principal Act, in sub-section (1), for the words beginning with "any person authorised" and ending with the words and figure "contravention of section 113", the words and figures "any officer of the Motor Vehicles Department authorised in this behalf by the State Government shall, if he has reason to believe that a goods vehicle or trailor is being used in contravention of section 113" shall be substituted.

36. **Amendment of Section 116**—In section 116 of the principal Act, in sub-section (7), for the words "the Schedule", at both the places where they occur, the words "the First Schedule" shall be substituted.

37. **Amendment of Section 127**—In section 127 of the principal Act, -

(a) for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) Where any motor vehicle is abandoned or left unattended on a public place for ten hours or more or is parked in a place where parking is legally prohibited, its removal by a towing service or its immobilisations by any means including wheel clamping may be authorised by a police officer in uniform having jurisdiction.".

(b) in sub-section (2), for the word "highway", at both the places where it occurs, the words "public place" shall be substituted.

38. **Amendment of Section 129**—In section 129 of the principal Act, for the words "a protective headgear of such descriptions as may be specified by the State Government by rules made by it in this behalf, and different descriptions of headgears may be specified in such rules in relation to different circumstances or different class or description of motor cycles", the words "protective headgear conforming to the standards of Bureau of Indian Standards" shall be substituted.

39. **Amendment of Section 130**—In section 130 of the principal Act, -

(a) for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) The conductor, if any, of a motor vehicle on any public place shall on demand by any officer of the Motor Vehicles Department authorised in this behalf, produce the licence for examination.";

(b) for sub-section (3), the following sub-section and Explanation shall be substituted, namely :-

"(3) The owner of a motor vehicle (other than a vehicle registered under section 60), or in his absence the driver or other person in charge of the vehicle, shall, on demand by a registering authority or any other officer of the Motor Vehicles Department duly authorised in this behalf, produce the certificate of insurance of the vehicle and, where the vehicle is a transport vehicle, also the certificate of fitness referred to in section 56 and the permit; and if any or all of the certificates or the permit are not in his possession, he shall, within fifteen days from the date of demand, submit photo copies of the same, duly attested in person or send the same by registered post to the officer who demanded it.

Explanation. - For the purposes of this sub-section, "certificate of insurance" means the certificate issued under sub-section (3) of section 147.".

40. **Amendment of Section 132**—In section 132 of the principal Act, in sub section (1), -

(a) for the words "may reasonably be necessary", the words "may for such reasonable time as may be necessary, but not exceeding twenty-four hours" shall

be substituted;

(b) for clause (a), the following sub-section shall be substituted, namely :-

"(a) when required to do so by any police officer not below the rank of a Sub-Inspector in uniform, in the event of the vehicle being involved in the occurrence of an accident to a person, animal or vehicle or of damage to property, or";

(c) clause (c) shall be omitted.

41. **Amendment of Section 134**—In section 134 of the principal Act, -

(a) in clause (a), for the words "and if necessary, convey him to the nearest hospital", the words "by conveying him to the nearest medical practitioner or hospital, and it shall be the duty of every registered medical practitioner or the doctor on duty in the hospital immediately to attend to the injured person and render medical aid or treatment without waiting for any procedural formalities" shall be substituted;

(b) after clause (b), the following clause and Explanation shall be inserted, namely :-

"(c) give the following information in writing to the insurer, who has issued the certificates of insurance, about the occurrence of the accident, namely :-

(i) insurance policy number and period of its validity;

(ii) date, time and place of accident;

(iii) particulars of the persons injured or killed in the accident;

(iv) name of the driver and the particulars of his driving licence.

Explanation. - For the purposes of this section, the expression "driver" includes the owner of the vehicle.".

42. **Amendment of Section 136**—In section 136 of the principal Act, for the words "without unnecessary delay", the words "after completion of the formalities to the owner, driver or the person in charge of the vehicle within twenty-four hours" shall be substituted.

43. **Amendment of Section 140**—In section 140 of the principal Act, -

(a) in sub-section (2), -

(i) for the words "twenty-five thousand rupees", the words "fifty thousand rupees" shall be substituted;

(ii) for words "twenty thousand rupees", the words "twenty-five thousand rupees" shall be substituted;

(b) after sub-section (4), the following sub-section and proviso shall be inserted, namely :-

"(5) Notwithstanding anything contained in sub-section (2) regarding death or bodily injury to any person, for which the owner of the vehicle is liable to give compensation for relief, he is also liable to pay compensation under any other law for the time being in force:

provided that the amount of such compensation to be given under any other law shall be reduced from the amount of compensation payable under this section or under section 163A.".

44. **Amendment of Section 141**—In section 141 of the principal Act, in sub section (1), for the words and bracket "any other right (hereafter", the words, figures letter and bracket "any other right, except the right to claim under the scheme referred to section 163A (such other right hereafter" shall be substituted.

45. **Amendment of Section 146**—In section 146 of the principal Act, in

(k) maintenance of State registers for driving licences and vehicle registration;

(l) constitution of Road Safety Councils.

The Bill also seeks to provide for more deterrent punishment in the cases of certain offences.

The Notes on clauses explain the provisions of the Bill.

The Bill seeks to achieve the above objectives.

ACT 59 OF 1988—The Bill as passed by both the Houses of Parliament, received the assent of the President of India on 14th October, 1988 and soon thereafter became in Act of Parliament under short title and citation "THE MOTOR VEHICLES ACT, 1988 (59 of 1988)".

AMENDMENT ACT—The Motor Vehicles (Amendment) Act, 1994 (54 of 1994) (w.e.f. 14th November, 1994).

2. **Amendment of Section 2**—In section 2 of the Motor Vehicles Act, 1988 (59 of 1988) (hereinafter referred to as the principal Act):-

(i) in clause (8), sub-clause (a) shall be omitted;

(ii) in clause (21), for the figure "*6000*", the figure "*7500*" shall be substituted;

(iii) after clause (21), the following clause shall be inserted, namely:-

'(21A) "manufacturer" means a person who is engaged in the manufacture of motor vehicles;' ;

(iv) in clause (28), for the words "thirty-five cubic centimetres" occurring at the end, the words "twenty-five cubic centimetres" shall be substituted;

(v) for clause (39), the following clause shall be substituted, namely :-

'(39) "semi-trailer" means a vehicle not mechanically propelled (other than a trailer), which is intended to be connected to a motor vehicle and which is so constructed that a portion of it is super imposed on, and a part of whose weight is borne by, that motor vehicle;' ;

(vi) in clause (42), after sub-clause (iii), the following sub-clause shall be inserted, namely :-

"(iv) Zilla Parishad or any other similar local authority."

3. **Amendment of Section 3**—In section 3 of the principal Act, in sub-section (1), for the words "a motor cab", the words "a motor cab or motor cycle" shall be substituted.

4. **Amendment of Section 4**—In section 4 of the principal Act, in sub-section (1), in the proviso, for the words "a motor cycle without gear", the words "a motor cycle with engine capacity not, exceeding 50cc" shall be substituted.

5. **Amendment of Section 7**—In Section 7 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) No person shall be granted a learner's licence to drive a transport vehicle unless he has held a driving licence to drive a light motor vehicle for at least one year.".

6. **Amendment of Section 8**—In Section 8 of the principal Act, after sub-section (3), the following proviso shall be added, namely :-

"Provided that no such medical certificate is required for licence to drive a vehicle other than a transport vehicle.".

7. **Amendment of Section 9**—In Section 9 of the principal Act,-

(a) for sub-section (3), the following shall be substituted, namely :-

"(3) If the applicant passes such test as may be prescribed by the Central Government, he shall be issued the driving licence:

Provided that no such test shall be necessary where the applicant produces proof to show that :-

(a) (i) the applicant has previously held a driving licence to drive such class of vehicle and that the period between the date of expiry of that licence and the date of the application does not exceed five years, or

(ii) the applicant holds or has previously held a driving licence to drive such class of vehicle issued under section 18, or

(iii) the applicant holds a driving licence to drive such class of vehicle issued by a competent authority of any country outside India, subject to the condition that the applicant complies with the provisions of sub-section (3) of section 8,

(b) the applicant is not suffering from any disability which is likely to cause the driving by him to be a source of danger to the public; and the licensing authority may, for that purpose, require the applicant to produce a medical certificate in the same form and in the same manner as is referred to in sub-section (3) of section 8 :

Provided further that where the application is for a driving licence to drive a motor vehicle (not being a transport vehicle), the licensing authority may exempt the applicant from the test of competence to drive a vehicle prescribed under this sub-section, if the applicant possesses a driving certificate issued by any institution recognised in this behalf by the State Government." ;

(b) for sub-section (5), the following sub-section shall be substituted, namely :-

"(5) Where the applicant does not pass the test; he may be permitted to re-appear for the test after a period of seven days:

Provided that where the applicant does not pass the test even after three appearances, he shall not be qualified to re-appear for such test before the expiry of a period of sixty days from the date of last such test.".

8. **Amendment of Section 10**—In section 10 of the principal Act, in sub-section (2), for clauses (e) to (h), the following clause shall be substituted, namely :-

"*(e) transport vehicle;*".

9. **Amendment of Section 14**—In section 14 of principal Act, in sub-section (2), -

(i) in sub-clause (a), the word "and" shall be omitted, and after clause (a) as so amended, the following proviso shall be inserted, namely :-

"Provided that in case of licence to drive a transport vehicle carrying goods of dangerous or hazardous nature be effective for a period of one year and renewal thereof shall be subject to the condition that the driver undergoes one day refresher course of the prescribed syllabus; and" ;

(ii) in clause (b), -

(a) in sub-clause (i), for the words "forty years", at the two places where they occur, the words "fifty years" shall be substituted;

(b) for sub-clause (ii), the following clause shall be substituted, namely :-

"(ii) if the person referred to in sub-clause (i), has attained the age of fifty years on the date of issue or as the case may be, renewal thereof, be effective, on

sub-section (1), before the Explanation, the following proviso shall be inserted, namely :-

"Provided that in the case of a vehicle carrying, or meant to carry, dangerous or hazardous goods, there shall also be a policy of insurance under the Public Liability Insurance Act, 1991 (6 of 1991).".

46. **Amendment of Section 147**—In section 147 of the principal Act, in sub-section (1), in clause (b), in sub-clause (i), for the words "injury to any person", the words "injury to any person, including owner of the goods or his authorised representative carried in the vehicle" shall be substituted.

47. **Amendment of Section 149**—In section 149 of the principal Act, in sub-section (1), after the brackets and words "(being a liability covered by the terms of the policy)", the words, figures and letter "or under the provisions of section 163A" shall be inserted.

48. **Amendment of Section 157**—In section 157 of the principal Act, after sub-section (1), the following Explanation shall be inserted, namely :-

"Explanation. - For the removal of doubts, it is hereby declared that such deemed transfer shall include transfer of rights and liabilities of the said certificate of insurance and policy of insurance.".

49. **Amendment of Section 158**—In section 158 of the principal Act, for sub-section (6), the following sub-section shall be substituted, namely :-

"(6) As soon as any information regarding any accident involving death or bodily injury to any person is recorded or report under this section is completed by a police officer, the officer incharge of the police station shall forward a copy of the same within thirty days from the date of recording of information or, as the case may be, on completion of such report to the Claims Tribunal having jurisdiction and a copy thereof to the concerned insurer, and where a copy is made available to the owner, he shall also within thirty days of receipt of such report, forward the same to such Claims Tribunal and Insurer.

50. **Amendment of Section 161**—In section 161 of the principal Act, in sub-section (3), -

(a) in clause (a), for the words "eight thousand and five hundred rupees", the words "twenty-five thousand rupees" shall be substituted;

(b) in clause (b), for the words "two thousand rupees", the words "twelve thousand and five hundred rupees" shall be substituted.

51. **Insertion of new sections 163A and 163B**—After section 163 of the Principal Act, the following sections shall be inserted, namely :-

'163A. Special provisions as to payment of compensation on structured formula basis. - (1) Notwithstanding anything contained in this Act or in any other law for the time being in force or instrument having the force of law, the owner of the motor vehicle of the authorised insurer shall be liable to pay in the case of death or permanent disablement due to accident arising out of the use of motor vehicle, compensation, as indicated in the Second Schedule, to the legal heirs, or the victim, as the case may be.

Explanation. - For the purposes of this sub-section, "permanent disability" shall have the same meaning and extent as in the Work-men's Compensation Act, 1923. (8 of 1923).

(2) In any claim for compensation under sub-section (1), the claimant shall not be required to plead or establish that the death or permanent disablement in respect of which the claim has been made was due to any wrongful act or neglect

or default of the owner of the vehicle or vehicles concerned or of any other person.

(3) The Central Government may, keeping in view the cost of living by notification in the Official Gazette, from time to time amend the Second Schedule.

163B. Option to file claim in certain cases—Where a person is entitled to claim compensation under section 140 and section 163A, he shall file the claim under either of the said sections and not under both.'.

52. **Amendment of Section 165**— In section-165 of the principal Act, -

(a) in sub-section (1), in the Explanation, the words, figures and letter "and section 163A" shall be added at the end;

(b) in sub-section (3), in clause (c), the words "or as a District Judge" shall be added at the end.

53. **Amendment of Section 166**—In section 166 of the principal Act, -

(a) for sub-section (2), the following sub-section and proviso shall be substituted, namely :-

"(2) Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred, or to the Claims Tribunal within the local limits of whose jurisdiction the claimants resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed :

Provided that where no claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant.";

(b) sub-section (3) shall be omitted;

(c) for sub-section (4), the following sub-section shall be substituted, namely :-

"(4) The Claims Tribunal shall treat any report of accidents forwarded to it under-section (6) of section 158 as an application for compensation under this Act.".

54. **Insertion of new section 182A**—After section 182 of the principal Act, the following section shall be inserted, namely :-

"182A. Punishment for offences relating to construction and maintenance of vehicles—Any person who contravenes the provisions of sub-section (3) of section 109, shall be punishable with a fine of one thousand rupee for the first offence, and with a fine of five thousand rupees for any subsequent offences.".

55. **Amendment of Section 185.** In section 185 of the principal Act, for clause (a), the following clause shall be substituted, namely :-

"(a) has, in his blood, alcohol exceeding 30 mg. per 100ml. of blood detected in a test by a breath analyser, or".

56. **Substitution of new sections for section 192**—For section 192 of the Principal Act. the following sections shall be substituted, namely :-

"192. Using vehicle without registration—(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of section 39 shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees for a second or subsequent offence with imprisonment which may extend to one year or with fine which may extend to ten thousand rupees but shall not be

less than five thousand rupees or with both;

Provided that the Court may, for reasons to be recorded, impose a lesser punishment.

(2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of person suffering from sickness or injuries or for the transport of food or materials to relieve distress or of medical supplies for a like purpose:

Provided that the person using the vehicle reports about the same to the Regional Transport Authority within seven days from the date of such use.

(3) The court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1), may set aside or vary any order made by the court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

192A. Using vehicle without permit—(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of sub-section (1) of section 66 or in contravention of any condition of a permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, shall be punishable for the first offence with a fine which may extend to five thousand rupees but shall not be less than two thousand rupees and for any subsequent offence with imprisonment which may extend to one year but shall not be less than three months or with fine which may extended to ten thousand rupees but shall not be less than five thousand rupees or with both:

Provided that the court may for reasons to be recorded impose a lesser punishment.

(2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or for the transport of food or materials to relieve distress or of medical supplies for a like purpose:

Provided that the person using the vehicle reports about the same to the Regional Transport Authority within seven days from the date of such use.

(3) The court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1) may set aside or vary any order made by the court made by the court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made.".

57. **Amendment of Section 194**—In section 194 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 113 or section 114 or section 115 shall be punishable with minimum fine of two thousand rupees and an additional amount of one thousand rupees per tonne of excess load, together with the liability to pay charges for off-loading of the excess load.".

58. **Amendment of Section 200**—In section 200 of the principal Act, in sub-section (1), for the word and figures "section 189,", the words, figures and brackets "section 189, sub-section (2) of section 190" shall be substituted.

59. **Amendment of Section 201**—In section 201 of the principal Act, -

(a) in sub-section (1), after the proviso, the following proviso shall be inserted, namely :-

"Provided further that where the vehicle is removed by a Government

agency, towing charges shall be recovered from the vehicle owner or person in-charge of such vehicle."

(b) for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) Penalties or towing charges under this section shall be recovered by such officer or authorities as the State Government may, by notification in the Official Gazette, authorise.".

60. **Amendment of Section 202**—In section 202 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) A police officer in uniform may arrest without warrant any person, who has committed an offence under this Act, if such person refuses to give his name and address.".

61. **Amendment of Section 203**—In section 203 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :-

"(1) A police officer in uniform or an officer of the Motor Vehicles Department, as may be authorised in this behalf by that Department, may require any person driving or attempting to drive a motor vehicle in a public place to provide one or more specimens of breath for breath test there or nearby, if such police officer or officer has any reasonable causes to suspect him of having committed an offence under section 185:

Provided that requirement for breath test shall be made (unless it is made) as soon as reasonably practicable after the commission of such offence.".

62. **Amendment of Section 212**—In section 212 of the principal Act, in sub-section (4), after the words, brackets and figures "sub-section (1) of section 112", the words, brackets, figures and letter "sub-section (4) of section 163A" shall be inserted.

63. **Amendment of the Schedule**—The Schedule to the principal Act shall be numbered as the First Schedule thereof.

64. **Insertion of new Schedule**. After the First Schedule, as so numbered, the following Schedule shall be inserted, namely :-

[THE SECOND SCHEDULE][50]

(See section 163-A)

SCHEDULE FOR COMPENSATION FOR THIRD PARTY FATAL ACCIDENT INJURY CASES CLAIMS

1. Fatal Accidents :

Annual Income		Rs. 3000	Rs. 4200	Rs. 5400	Rs. 6600	Rs. 7800	Rs. 9000	Rs. 10200	Rs. 11400	Rs. 12000	Rs. 18000	Rs. 24000	Rs. 36000	Rs. 40000
AGE OF VICTIM	MULTIPLIER	RUPEES IN THOUSAND												
		compensation in case of death												
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Up to 15 yrs	15	60	84	108	132	156	180	204	228	240	360	480	720	800
Above 15 yrs. but not exdg. 20 yrs.	16	57	79.8	102	125.4	148.2	171	193.8	216.6	228	342	456	684	760
Above 20 yrs. but not exdg. 25 yrs.	17	54	75.6	97.2	118.8	140.4	162	183.6	205.2	216	324	432	648	720
Above 25 yrs. but not exdg. 30 yrs.	18	51	71.4	91.8	112.2	132.6	153	173.4	193.8	204	306	408	612	680
Above 30 yrs. but not exdg. 35 yrs.	17	50	67.2	86.4	105.6	124.8	144	163.2	192.4	192	288	384	576	640
Above 35 yrs. but not exdg. 40 yrs.	16	50	63	81	99	117	135	153	171	180	270	360	540	600
Above 40 yrs. but not exdg. 45 yrs.	15	50	58.8	75.6	92.4	109.2	126	142.8	159.6	168	252	336	504	560
Above 45 yrs. but not exdg. 50 yrs.	13	50	50.4	64.8	79.2	93.6	108	122.4	136.8	144	216	286	432	480
Above 50 yrs. but not exdg. 55 yrs.	11	50	50	54	66	78	90	102	114	120	180	240	360	400
Above 55 yrs. but not exdg. 60 yrs.	8	50	50	50	52.8	62.4	72	81.6	91.2	96	144	192	286	320
Above 60 yrs. but not exdg. 65 yrs.	5	50	50	50	50	50	54	61.2	68.4	72	108	144	216	240
Above 65 yrs.	5	50	50	50	50	50	50	51	57	60	90	120	180	200

Note: The amount of compensation so arrived at in the case of fatal accident claims shall be reduced by 1/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself had he been alive.

50. *Inst.* by Amendment Act, 54 of 1994 Section 64.

2. Amount of compensation shall not be less than Rs. 50,000:

3. General Damage (in case of death):

The following General Damages shall be payable in addition to compensations outlined above:

(i)	Funeral expenses	— Rs. 2,000.-
(ii)	Loss of Consortium, if beneficiary is the spouse	— Rs. 5,000/-
(iii)	Loss of Estate	— Rs. 2,500/-
(iv)	Medical Expenses—actual expenses incurred before death supported by bills/vouchers but not exceeding	— Rs. 15,000/-

4. General Damages in case of injuries and Disabilities:

(i)	Pain and Sufferings	
	(a) Grievous injuries	— Rs. 5,000/-
	(b) Non-grievous injuries	— Rs. 1,000/-
(ii)	Medical Expenses—actual expenses incurred supported by bills/vouchers but not exceeding as one time payment	— Rs. 15,000/-

5. *Disability in non-fatal accidents:*

The following compensation shall be payable in case of disability to the victim arising out or non-fatal accidents:—

Loss of income, if any, for actual period of disablement not exceeding fifty-two weeks.

PLUS either of the following:—

(a) In case of permanent total disablement the amount payable shall be arrived at by multiplying the annual loss of income by the Multiplier applicable to the age on the date of determining the compensation, or

(b) In case of permanent partial disablement such percentage of compensation which would have been payable in the case of permanent total disablement as specified under item (a) above.

Injuries deemed to result in Permanent Total Disablement/Permanent Partial Disablement and percentage of loss of earning capacity shall be as per Schedule I under Workmen's Compensation Act, 1923.

6. National income for compensation to those who had no income prior to accident:—

Fatal and disability in non-fatal accidents.—

(a)	Non-earning persons	— Rs. 15,000 p.a.
(b)	Spouse	— Rs. 1/3rd of the earning surviving spouse.

In case of other injuries only "General Damage" as applicable.

THE APPROPRIATION (RAILWAYS) VOTE ON ACCOUNT ACT, 1994

The following Act of Parliament received the assent of the President on the 21st March, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 21, dated March 21, 1994.

INDIAN PARLIAMENT ACT NO. 14 OF 1994

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 1994-95 for the purposes of Railways.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Appropriation (Railways) Vote on Account Act, 1994.

(Text omitted)

THE MANIPUR APPROPRIATION (VOTE ON ACCOUNT) ACT, 1994

The following Act of Parliament received the assent of the President on the 21 March, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 23, dated March 21, 1994.

INDIAN PARLIAMENT ACT NO. 16 OF 1994

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of State of Manipur for the services of a part of the financial year 1994-95.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Manipur Appropriation (Vote on Account) Act, 1994.

(Text omitted)

THE MANIPUR APPROPRIATION ACT, 1994

The following Act of Parliament received the assent of the President on the 21st March, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 24, dated March 21, 1994.

INDIAN PARLIAMENT ACT NO. 17 OF 1994

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Manipur for the services of the financial year 1993-94.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Manipur Appropriation Act, 1994.

(Text omitted)

THE JAMMU AND KASHMIR APPROPRIATION (VOTE ON ACCOUNT) ACT, 1994

The following Act of Parliament received the assent of the President on the 21st March, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 25, dated March 21, 1994,

INDIAN PARLIAMENT ACT NO. 18 OF 1994

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Jammu and Kashmir for the services of a part of the financial year 1994-95.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called **the Jammu and Kashmir Appropriation (Vote on Account) Act, 1994.**

(Text omitted)

THE JAMMU AND KASHMIR APPROPRIATION ACT, 1994

The following Act of Parliament received the assent of the President on the 21st March, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 26, dated March 21, 1994.

INDIAN PARLIAMENT ACT NO. 19 OF 1994

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Jammu and Kashmir for the services of the financial year 1993-94.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the **Jammu and Kashmir Appropriation Act, 1994.**

(Text omitted)

THE NEYVELI LIGNITE CORPORATION LIMITED (ACQUISITION AND TRANSFER OF POWER TRANSMISSION SYSTEM) ACT, 1994

The following Act of Parliament received the assent of the President on the 14th September, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 73, dated September 14, 1994.

INDIAN PARLIAMRNT ACT NO. 56 OF 1994

An Act to provide in the public interestfor the acquisition and transfer of the power transmission system of the Neyveli Lignite Corporation Limited and the right, title and interest of the company in the power transmission system to Power Grid Corporation of India, Limited, with a view to developing the National Power Grid to ensure transmission of power, within and across the different regions of India on a more scientific, efficient and economic basis and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :—

CHAPTER I
Preliminary

1. **Short title, extent and commencement**—(1) This Act may be called the Neyveli Lignite Corporation Limited (Acquisition and Transfer of Power Transmission System) Act, 1994.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) The provisions of sections 8 to 11 and sections 13 to 16 shall come into force at once and the remaining provisions of this Act shall be deemed

to have come into force on the 1st day of April, 1992 and any reference to the commencement of this Act in any provisions of this Act shall be construed as a reference to the commencement of that provision.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "appointed day" means the 1st day of April, 1992 ;

(b) "associated personnel" means the employees of the company associated with its power transmission system ;

(c) "company" means the Neyveli Lignite Carporation Limited, a company incorporated and registered under the Companies Act, 1956 (1 of 1956) having its registered office at Neyveli-607801, South Arcot District, Tamil Nadu ;

(d) "Corporation" means the Power Grid Corporation of India Limited being a company within the meaning of the Companies Act, 1956 (1 of 1956) and having its registered office at Hemkunt Chambers, 89, Nehru Place, New Delhi-110019 ;

(e) "notification" means a notification published in the Official Gazette ;

(f) "power transmission system", in relation to the company, means the main transmission lines [including extra high voltage alternative current (EHVAC) lines and high voltage direct current (HVDC) lines] and sub-stations owned by the company ;

(g) "prescribed" means prescribed by rules made under this Act ;

(h) words and expressions used herein and not defined but defined in the Electricity (Supply) Act, 1948 (54 of 1948) or, as the case may be, the Companies Act, 1956 (1 of 1956) shall have the meanings, respectively, assigned to them in those Acts.

CHAPTER II

Acquisition and Transfer of Power Transmission System

3. **Acquisition of rights of company in relation to the power transmission system.**—(1) On the appointed day, the power transmission system and the right, title and interest of the company in relation to its power transmission system shall, by virtue of this Act, be deemed to have been transferred to, and vested in, the Central Government.

(2) The power transmission system vested in the Central Government by virtue of sub-section (1) shall, immediately after it had so vested, be deemed to have been transferred to, and vested in the Corporation.

4. **General effect of vesting.**—(1) The power transmission system shall be deemed to include all assets, rights, leaseholds, powers, authorities and privilleges and all property, movable and immovable, relating to such system including lands, buildings, workshops, projects (whether complete or at any stage of completion or planning), stores, spares, instruments, machinery and equipment, construction equipment, unutilised long-term and short term loans and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of the company and all books of account, registers and all other documents of whatever nature relating thereto but shall be deemed not to include—

(a) book debts due to the company, immediately before the appointed

day ;

(b) cash balances and bank balances as on the appointed day ;

(c) income and expenditure on revenue account relating to any period before the appointed day.

Explanation.—For the removal of doubts, it is hereby declared that rights in relation to the power transmission system of the company which have been transferred to, and vested in, the Corporation under sub-section (2) shall include the right to collect transmission charges for transmission of power and any monies collected on or after the appointed day by the company as transmission charges (whether shown separately or not) shall be payable by the company to the Corporation.

(2) Unless otherwise expressly provided by this Act, all deeds, bonds, guarantees (other than guarantees given by the Government of India), agreements, powers of attorney, grants of legal representation and other instruments of whatever nature in relation to the power transmission system of the company, subsisting or having effect immediately before the appointed day, and to which the company is a party or which are in favour of the said company shall be of as full force and effect against or in favour of the Corporation and may be enforced or acted upon as fully and effectually as if in the place of the company, the Corporation had been a party thereto or as if they had been issued in favour of the Corporation.

(3) If, on the date of commencement of this Act, any suit, appeal or other proceeding of whatever nature, in relation to any property or assets which have been transferred to, and vested in, the Corporation under sub-section (2) of section 3, instituted or preferred by or against the company was pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the power transmission system of the company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced, subject to the provisions of sub-section (1) of section 5, by or against the Corporation.

5. **Corporation to be liable for certain prior liabilities.**—(1) Subject to the provisions of sub-section (2), every liability of the company in relation to its power transmission system, in respect of any period priar to the appointed day, which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3, shall be the liability of the Corporation and shall be enforceable against the Corporation and not against the company :

Provided that nothing contained in this sub-section shall apply to :—

(a) the income and expenditure on revenue account relating to any period before the appointed day and received or, as the case may be, incurred by the company on or after the appointed day ;

(b) arrears of depreciation, regarding contingent liabilities on capital account relating to any period before the appointed day, arising on account of the decision of any court, tribunal or other authority.

(2) Where any repayment of a loan or interest, or both, has been made, on or after the appointed day, by the company to any lending agency, such repayment shall be deemed to have been made by the Corporation and the amount of such repayment shall be reimbursed by the Corporation to the company on adjustment of transmission charges or any other amount due to

the Corporation from the company.

6. **Corporation to be lessee or tenant.**—(1) Where any property is held by the company in relation to its power transmission system under any lease or right of tenancy, the Corporation shall, on and from the appointed day, be deemed to have become the lessee or tenant, as the case may be, in respect of such property as if the lease or tenancy in relation to such property had been granted to the Corporation and thereupon all the rights under such lease or tenancy shall be deemed to have been transferred to, and vested in the Corporation.

(2) On the expiry of the term of any lease or tenancy referred to in sub-section (1), such lease or tenancy shall, if so desired by the Corporation, be renewed on the same terms and conditions on which the lease or tenancy was held by the company immediately before the appointed day.

7. **Removal of doubts.**—(1) For the removal of doubts, it is hereby declared that the provisions of sections 3, 4, 5 and 6 shall apply to the extent to which any property appertains to the business relating to the power transmission system carried on by the company and to the rights and powers acquired, and to debts, liabilities and obligations incurred, and to contracts, agreements and other instruments made by the company and to legal proceedings relating to those matters pending in any court, tribunal or other authority in India.

(2) If any question arises as to whether any property appertained, on the appointed day, to any business of the company in relation to its power transmission system, or whether any rights, powers, debts, liabilities or obligations were acquired or incurred or any contract, agreement or other instruments was made by the company for the purposes of its said business, or whether any document relates to those purposes, the question shall be referred to the Central Government which shall after giving a reasonable opportunity of being heard to the persons interested in the matter, decide it in such manner as it may think fit.

8. **Payment of amount.**—(1) For the transfer to, and vesting in, the Central Government under sections 3 and 4 of the power transmission system and the right, title and interest of the company in relation to its power transmission system there shall be paid, in the prescribed manner, by the Central Government to the company such amount as is equal to the book value of all the assets and properties after deduction of liabilities (other than contingent liabilities) given in the audited statement of accounts of the company as on the 31st day of March, 1992.

(2) For the transfer to, and vesting in, the Corporation under sub-section (2) of section 3 of the power transmission system and the right, title and interest of the company in relation to its power transmission system, there shall be paid, in the prescribed manner, by the Corporation to the Central Government, the amount which is paid by that Government to the company under sub-section (1).

(3) In case of any dispute relating to the nature of any asset, property or liability or the amount payable under sub-section (1), the dispute shall be referred by the Central Government to such authority as it may appoint and the decision of that authority in the matter shall be final.

CHAPTER III

Delivery of assets, etc., to the Corporation

9. Duty of persons to account for assets, etc., in their possession.—(1) Any person who has, on the date of commencement of this Act, in his possession or under his control, any assets, books any other documents relating to the power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3, shall be liable to account for the said assets, books and documents to the Corporation and shall deliver them up to the Corporation or to such person or persons as the Corporation may specify in this behalf.

(2) The Corporation may take or cause to be taken all necessary steps for securing possession of the power transmission system which has been transferred to, and vested in, the Corporation under this Act.

(3) The company shall, within such period as the Corporation may allow in this behalf, furnish to the Corporation a complete inventory of all its property and assets as on the appointed day pertained to its power transmission system which has been transferred to, and vested in, the Corporation under sub-section (2) of section 3.

CHAPTER IV

Provision relating to associated personnel

10. Continuance of associated personnel.—(1) On the vesting of the power transmission system of the company in the Corporation, the associated personnel who have been, immediately on or before the 1st day of December, 1992, employed in the company and have not already become employees of the Corporation shall become on and from the date of commencement of this Act, employees of the Corporation and shall hold office or service under the Corporation on the terms and conditions which are not in any way less favourable than those which would have been admissible to them if there had been no such vesting and shall continue to do so unless and until their employment under the Corporation is duly terminated or until their remuneration and other conditions of service are duly altered by the Corporation

(2) Notwithstanding anything contained in the Industrial Disputes Act 1947 (14 of 1947), or any other law for the time being in force the transfer of the services of the associated personnel to the Corporation, shall not entitle such personnel to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

11. Provident fund and other funds.—(1) Where the company has established a provident fund or any other fund for the benefit of the persons employed by it, the monies relatable to the associated personnel who have already become employees of the Corporation or whose services have become transferred under this Act to the Corporation shall out of the monies standing, on the date of transfer of the associated personnel, to the credit of such provident fund or other fund, stand transferred to, and vest in the Corporation.

(2) The monies which stand transferred under sub-section (1) to the Corporation shall be dealt with by the Corporation in such manner as may be prescribed.

CHAPTER V

Miscellaneous

12. **Act to have overriding effect.**—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

13. **Penalties.**—Any person who,—

(a) having in his possession, custody or control any property forming part of the power transmission system of the company wrongfully withholds such property from the Corporation ; or

(b) wrongfully obtain possession of, or retains, any property forming part of the power transmission system of the company ; or

(c) wilfully withholds or fails to furnish to the Corporation or any person or body of persons specified by the Corporation, any document or inventory relating to the power transmission system of the company, which may be in his possession, custody or control ; or

(d) fails to deliver to the Corporation or any person or body of persons specified by that Corporation, any assets, books of account, registers or other documents in his possession, custody or control relating to the power transmission system of the company,

shall be punishable with imprisonment for a term which may extend to two years and also with fine which may extend to ten thousand rupees.

14. **Offences by companies.**—(1) Where an offence punishable under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals ; and

(b) "director", in relation to a firm, means a partner in the firm.

15. **Protection of action taken good faith.**—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Corporation or the company or any officer of that Government, Corporation or company or any other person authorised by that Government, Corporation or company for anything which is in good faith done or intended to be done under this Act.

16. **Power to make rules.**—(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which the amount is to be paid under sub-section (1) or sub-section (2) of section 8 ;

(b) the manner in which the monies in any provident fund or other fund, referred to in sub-section (2) of section 11, shall be dealt with ;

(c) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE AIRPORTS AUTHORITY OF INDIA ACT, 1994

The following Act of Parliament received the assent of the President on the 12th September, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 72, dated September 15, 1994.

INDIAN PARLIAMENT ACT 55 OF 1994

An Act to provide for the constitution of the Airports Authority of India and for the transfer and vesting of the undertakings of the International Airports Authority of India and the National Airports Authority to and in the Airports Authority of India so constituted for the better administration and cohesive management of airports and civil enclaves whereat air transport services are operated or are intended to be operated and of all aeronautical communication stations and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India, as follows :—

CHAPTER I
Preliminary

1. **Short title, commencement and application.**—(1) This Act may be called the Airports Authority of India Act, 1994.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It applies to—

(a) all airports whereat air transport services are operated or are intended to be operated, other than airports and airfields belonging to, or subject to the control of, any armed force of the Union ;

(b) all civil enclaves ;

(c) all aeronautical communication stations ; and

(d) all training stations, establishments and workshops relating to air transport services.

PART VI

MAHARASHTRA ACTS & ORDINANCES

1995

THE MAHARASHTRA ZILLA PARISHADS AND PANCHAYAT SAMITIS (THIRD AMENDMENT) ACT, 1993

The following Act of the Maharashtra Legislaure having received the assent of the Governor, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 20th January, 1994.

MAHARASHTRA ACT NO. XII OF 1994

An Act further to amend the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961.

Whereas both Houses of the State Legislature were not in session ;

And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Zilla Parishads and Pahchayat Samitis Act, 1961, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Zilla Parishads and Panchayat Samitis (Fourth Amendment) Ordinance, 1993, on the 25th November 1993 ;

And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Forty-fourth Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the **Maharashtra Zilla Parishads and Panchayat Samitis (Third Amendment) Act, 1993.**

(2) It shall be deemed to have come into force on the 25th November, 1993.

2. **Amendment of section 2 of Mah. V of 1962.**—In section 2 of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (hereinafter referred to as "the principal Act"), after clause (15), the following clause shall be inserted, namely :—

"(15A) "Executive Officer" means the Executive Officer" appointed under section 95A;".

3. **Amendment of section 7 of Mah. V of 1962.**—In section 7 of the principal Act, in sub-section (1),—

(a) in clause (f), the word "and" shall be deleted ;

(b) after clause (f), the following clause shall be inserted, namely :—

"(f-a) the Executive Officer and".

4. **Insertion of new section 96A in Mah. V of 1962.**—After section 95 of

the principal Act, the following section shall be inserted, namely :—

"96A. **Appointment of Executive Officer and his powers and functions.**—(1) There shall be an Executive Officer appointed by the State Government for every Selected Inregrated Tribal Development Project Block as may be notified by the State Government from time to time.

(2) The Executive Officers shall exercise such powers and perform such duties and functions of the Chief Executive Officers, as the State Government may, by any general or special order, confer on, and assign to, them, from time to time, for implementing the Selected Integrated Tribal Development Project".

5. **Repeal of Mah. Ord. XVIII of 1993 and saving.**—(1) The Maharashtra Zilla Parishads and Panchayat Samities (Fourth Amendment) Ordinance, 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken, as the case may be, under the principal Act, as amended by this Act.

THE MAHARASHTRA CO-OPERATIVE SOCIETIES (AMENDMENT) ACT, 1993

The following Act of the Maharashtra Legislature having received the assent of the Governor, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 20th January, 1994.

MAHARASHTRA ACT NO. XIII OF 1994

An Act further to amend the Maharashtra Co-operative Societies Act, 1960.

Whereas it is expedient further to amend the Maharashtra Co-operative Societies Act, 1960, for the purposes hereinafter appearing ; It is hereby enacted in the Forty-fourth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Maharashtra Co-operative Societies (Amendment) Act, 1993.

2. **Amendment of section 2 of Mah. XXIV of 1961.**—In section 2 of the Maharashtra Co-operative Societies Act, 1961 (hereinafter referred to as "the pricipal Act"), in clause (10-aiii),—

(a) for the figures, letters and words "30th day of June", the figures, letters and word "31st day of March" shall be substituted ;

(b) for the words "as may have been fixed, with the previous approval of the Registrar", the words "as may have been fixed by the Registrar, from time to time" shall be substituted.

3. **Amendment of section 29 of Mah. XXIV of 1961.**—In section 29 of the principal Act, in sub-section (3), in the Explanation II, for the figures, letters and word "30th June", the figures, letters and words "30st day of March" shall be substituted.

4. **Amendment of section 67 of Mah. XXIV of 1961.**—In section 67 of the principal Act, for the figures and words "12 per cent except with the prior sanction of the State Government". the figures and words "13 per cent except with the prior sanction of the Registrar" shall be substituted.

5. **Amendment of section 73 of Mah. XXIV of 1961.**—In section 73 of the principal Act, after sub-section (1), the following sub-section shall be

inserted, namely :—

"(1A) Notwithstauding anything contained in this Act, the rules made thereunder or in the bye-laws of any society or class of societies,—

(a) the first general meeting of a society shall be convened within three months from the date of its registration to appoint a provisional committee and to transact other business as may be prescribed. The terms of the members of such provisional committee shall be for a period of one year from the date on which it has been first appointed or till the date on which a regular committee is duly constituted in accordance with the provisions of the rules or bye-laws made under this Act, whichever is earlier, and all the members of such provisional committee shall vacate office on the date of expiry of such period or such constitution of the committee ;

(b) Notwithstanding anything contained in clause (a), the provisional committees for the Co-operative Sugar Factories and Co-operative Spinning Mills and such other class of socseties, as the State Government may, by special or general order in the Official Gazette, specify in this behalf, shall be appointed by the State Government, and the members thereof shall hold office for a period of three years, which period may be extended by one year, at a time, so however that, the total period shall not exceed five years, in the aggregate :

Provided that, the State Government shall have the power to change or reconstitute such committee or, any or all members thereof at its discretion even before the expiry of the period for which a member or members were nominated thereon :

Provided further that, the member or members assuming office on such change or re-constitution of the committee shall hold office for the period for which the provisional committee has been appointed under this clause.

(c) pending the first constitution of the committee of the society, the provisional committee of the society shall exercise the powers and perform the duties of the committee of such society as provided in this Act, the rules and bye-laws and make necessary arrangements for holding election of the committee, before the expiry of its term.".

6. **Amendment of section 77A of Mah. XXIV of 1961.**—In section 77A of the principal Act, in sub-section (1), before clause (a), the following clause shall be inserted, namely :—

"(1-a) a provisional committee has failed to make necessary arrangements for holding elections of the first committee, before the expiry of its term as specified in sub-section (1A) of section 73 ".

7. **Amendment of section 78 of Mah. XXIV of 1961.** In section 78 of the principal Act, in sub-section (1), to clause (b), the following proviso shall be added, namely :—

"Provided that, the member who has been so removed, shall not be eligible to be re elected, re-appointed, re-nominated or re-co-opted, as a member of the Committee till the expiry of the period of next full term of the Committee from the date on which he has been so removed.".

8. **Amndment of section 81 of Mah. XXIV of 1961.**—In section 81 of the principal Act, in sub-section (1), in clause (a), for the words "Government undertakings or financial institution, from time to time," the following shall be substituted, namely :—

"or Government undertakings, from time to time, and accounts of the

apex societies, State and District Level Federal Societies, District Central Co-operative Banks, Co-operative Sugar Factories, Urban Co-operative Banks, Co-operative Spinning Mills District and Taluka Co-operative Sale and Purchase Organisations, and any such Society or class of Societies which the State Government may, from time to time, by notification in the Official Gazette, specify".

9. **Amendment of section 89A of Mah. XXIV of 1961.**—In section 112A of the principal Act, in sub-section (1), in the proviso, for the words "Joint Registrar" the words "Deputy Registrar" shall be substituted.

10. **Amendment of section 112A of Mah. XXVI of 1961.**—In section 112A of the principal,—

(1) In sub-section (1),—

(a) In clause (b),—

(i) the word "twelve" shall be deleted;

(ii) for sub-clause (i), the following sub-clause shall be substituted, namely :—

"(i) delegates, to be elected one each from every taluka in a district";

(iii) in sub-clause (i-a), for the words "who shall be nominated by the Registrar;" the words "who shall be elected from the District:" shall be substituted ;

(iv) to sub-clause (i-a), the following provisos shall be added, namely :—

"Provided that, in a district, where there are more than seven talukas and before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1993; the elections to elect seven delegates on the District Loan Committee as provided by sub-clause (i), as it existed then, have already been held, the State Government shall nominate on such committee, such additional number of delegates as may be necessary from the talukas from which no delegates are elected, so as to bring the total number of the delegates equal to the number of talukas in such district :

Provided further that, after having held the election as aforesaid, the two members to be nominated by the Registrar under sub-clause (i-a), as it existed then, have not yet been nominated by the Registrar, then the Registrar shall nominate such two members :

Provided also that, the term of office of all such nominated members shall be co terminus with the term of office of the seven such delegates so elected :

Provided also that, at any election held after the commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1993, any member of the State Agriculture and Rural Development Bank in the District belonging to the Scheduled Castes or Scheduled Tribes, or, as the case may be, weaker section, shall be eligible to contest such election ;";

(v) for the Explanation, the following Explanation shall be substituted, namely :—

"**Explanation.**—For the purpose of sub-clause (i-a), the provisions of clause (b), and of any order issued under clause (c) of the Explanation to 73B shall apply in relation to the members to be elected thereunder;";

(b) for clause (c), the following clause shall be substituted, namely :—

"(c) The delegates or members to be elected under sub-clauses (i) and

(i-a) of clause (b) shall be elected by direct election, by the members of the State Agriculture and Rural Development Bank".;

(c) in clause (d),—

(i) after the words "to elect delegates" the words "and members" shall be inserted ;

(ii) in the proviso, for the words "a delegate or delegates of the State Agriculture and Rural Development Bank" the words, brackets and letter "delegates or members referred to in clause (b)" shall be substituted ;

(2) in sub-section (2), for the words, brackets, letters and figures "delegates elected under sub-clause (i) and members nominated under sub-clause (i-a) of clause (b) of sub-section (1)" the words "elected delegates and members thereof" shall be substituted ;

(3) in sub-section (3)—

(a) for the words, brackets and figure "or from the date of nomination of members, under sub-section (1), whichever is later" the words, brackets and figure "and the members under sub-section (1)" shall be substituted ;

(b) the words "the nominated" shall be deleted ;

(4) in sub-section (5),—

(a) for the words "member, nominated member" the words "delegate, member" shall be substituted ;

(b) the words "or nomination, as the case may be," shall be deleted ;

(c) in the first proiso, for the words "such member", the words "such delegate, or as the case may be, member" shall be substituted ;

(d) in the second proviso,—

(i) for the words "the member" in both the places where they occur, the words "the delegate, member" shall be substituted ;

(ii) the words "or a member nominated" shall be deleted ;

(iii) the words "or as the case may be, nominated" shall be deleted.

11. Amendment of section 112B of Mah. XXIV of 1961.—In section 112B of the principal Act, in sub-section (1), in clause (a), after the word "delegates" the words "and members" shall be inserted.

12. Amendment of section 152 of Mah. XXIV of 1961.—In section 152 of the principal Act,—

(a) in sub-section (1), for the figures and word "78 and 105" the following shall be substituted, namely :—

"78, 79, 85, 88 and 105 including against an order for paying compensation to a society" ;

(b) "for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) Where an appeal against any order or decision to the Co-operative Appellate Court has been provided under this Act, it shall lie to the Co-operative Appellate Court.".

THE MAHARASHTRA RAW COTTON (PROCUREMENT, PROCESSING AND MARKETING) (RETROSPECTIVE EXTENSION OF DURATION) ACT, 1993

The following Act of the Maharashtra Legislature having received the assent of the Governor, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 20th January, 1994.

MAHARASHTRA ACT NO. XIV OF 1994

An Act to amend the duration of the Maharashtra Raw Cotton (Procurement, Processing and Marketing) Act, 1971 with retrospective effect.

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to extend the duration of the Maharashtra Raw Cotton Procurement, Processing and Marketing) Act, 1971, with retrospective effect for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Raw Cotton (Procurement, Processing and Marketing) (Retrospective Extension of Duration) Ordinance, 1993, on the 7th December, 1993 ;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Forty-fourth Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the **Maharashtra Raw Cotton (Procurement, Processing and Marketing) (Retrospective Extension of Duration) Act, 1993.**

(2) It shall be deemed to have come into force on the 30th day of June 1993.

2. **Amendment of section 1 of Mah. XLVII of 1971.**—In section 1 of the Maharashtra Raw Cotton (Procurement, Processing and Marketing) Act, 1971 (hereinafter referred to as "the principal Act"), in sub-section (4), for the figures "1993" the figures "1994" shall be substituted.

3. **Saving.**—Nothing in this Act shall render any person liable to be convicted of any offence in respect of anything done by him or anything omitted to be done by him, during the period commencing on the 1st day of July 1993 and ending on the 7th December 1993, if such act or omission was not an offence but for the retrospective extension of duration of the principal Act, by this Act.

4. **Removal of doubt.**—For the removal of doubt, it is hereby declared that the principal Act, which was to expire after the 30th June 1993 having been retrospectively extended from that date upto and inclusive of the 30th June 1994 by this Act, it shall be deemed never to have expired at any time and all its provisions as amended and extended by this Act shall, subject to the provisions of section 3 of this Act, be deemed to be continuously in force.

5. **Repeal of Mah. XIX of 1993 and saving.**—(1) The Maharashtra Raw Cotton (Procurement, Processing and Marketing) (Retrospective Extension of Duration) Ordinance, 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any appointment made or any rule, order or notification issued) under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken, made or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.

THE MUNICIPAL CORPORATIONS AND MUNICIPAL COUNCILS (AMENDMENT) ACT, 1993

The following Act of the Maharashtra Legislature having received the assent of the Governor, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 20th January, 1994.

MAHARASHTRA ACT NO. XV OF 1994

An Act further to amend the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils Act, 1965.

WHEREAS it is expedient further to amend the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils Act, 1965, for the purposes hereinafter appearing; It is hereby enacted in the Forty fourth Year of the Republic of India as fallows :—

1. Short title and commencement.—(1) This Act may be called **the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993.**

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. **Amendment of section 5 of Bom. III of 1888.**—In section 5 of the Bombay Municipal Corporation Act,—

(1) in sub-section (1B),—

(a) for the words, brackets and figures "the Maharashtra Municipal Corporations and Municipalities (Amendment) Act, 1992" the following shall be substituted, namely :—

"the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 199 ",

(b) for the words "and the Scheduled Tribes" the words ", the Scheduled Tribes and the Other Backward Classes", shall be substituted ;

(c) the proviso shall be deleted ;

(2) after sub-section (1C), the following sub-section shall be inserted, namely :—

"(1D) (a) Notwithstanding any thing contained in sub-sections (1), (1A), (1B) and (1C) of this section or in section 19, for the purpose of any general election held after the commencement of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993 (hereinafter referred to as "the said Amendment Act"), as nearly as may be twenty seven per cent. seats out of the total number of seats available and to be filled in by direct election shall be reserved for the Other Backward Classes and allotted by rotation in such manner and to such wards in which the seats shall be so reserved as the State Government may determine, and specify such wards in any notification issued under sub-section (1) of section 19.

(b) As nearly as may be, thirty per cent. of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Other Backward Classes.

Explanation.—In this sub-section, the expression "Other Backward Classes" means and includes Vimukta Jatis and Nomadic Tribes, and such classes or parts of, or groups within, such Classes as are declared, from time to time, by the State Government to be the Other Backward Classes.".

Amendment of section 5 of Bom. LIX of 1949.—In section 5 of the Bombay Provincial Municipal Corporations Act, 1949,—

(1) in sub-section (4),—

(a) for the words, brackets and figures "the Maharashtra Municipal Corporations and Municipalities (Amendment) Act, 1992" the following shall be substituted, namely :—

"the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993";

(b) for the words "and the Scheduled Tribes" the words, "the Scheduled Tribes and the Other Backward Classes" shall be substituted ;

(c) the proviso shall be deleted;

(2) after sub-section (4), the following sub-section shall be added, namely :—

"(5) (a) Notwithstanding anything contained in sub-sections (2), (3) and (4,) for the purpose of any general elections held after the commencement of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993 (hereinafter referred to as "the said Amendment Act"), as nearly as may be, twenty seven per cent of the total number of seats available and to be filled in by direct election, shall be reserved for the Other Backward Classes and allotted by rotation in such manner and to such wards in which the seats shall be so reserved, as the State Government may, determine and specify such wards in any notification issued under sub-section (1) ;

(b) As nearly as may be, thirty per cent of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Other Backward Classes.

Explanation.—In this sub-section, the expression "Other Backward Classes" means and includes Vimukta Jatis and Nomadic Tribes, and such classes or part of, or groups within, such Classes as are declared, from time to time, by the State Government to be the Other Backward Classes.'.

4. **Amendment of section 9 of C.P. and Berar II of 1950**—In section 9 of the City of Nagpur Corporation Act, 1948.—

(1) In sub-section (3),—

(a) for the words, brackets and figures "the Maharashtra Municipal Corporation and Municipalities (Amendment) Act, 1992", the following shall be substituted, namely :—

"the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993" ;

(b) for the words "and the Scheduled Tribes", the words "the Scheduled Tribes and the Other Backward Classes" shall be substituted ;

(c) the proviso shall be deleted ;

(2) after sub-section (3), the following sub-section shall be added, namely ;—

"(4) (a) Notwithstanding anything contained in sub-sections (1), (2) and (3), for the purposes of any general election held after the commencement of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993 (hereinafter referred to as "the said Amendment Act"), as nearly as may be, twenty seven per cent of the total number of seats available and to be filled in by direct election, shall be reserved for the Other Backward Classes and allotted by rotation in such manner and to such wards in which the seats shall be reserved, as the State Government may, determnie and specify such wards in any not fication issued under sub-sction (2) ;

(b) As nearly as may be, thirty per cent of the total number of seats reserved under clause (a) shall be reserved for momen belonging to Other Backward Classes,

Explanation.—In this sub-section, the expression "Other Backward

PART VII

BIHAR ACTS, ORDINANCES & NOTIFICATIONS

1995

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THE BIHAR NON-GOVERNMENT SECONDARY SCHOOLS (TAKING-OVER OF MANAGEMENT AND CONTROL) (AMENDMENT) ACT, 1993

BIHAR ACT 3 OF 1994

An Act to amend the Bihar Non-Government Secondary Schools (Taking-over of Management and Control) Act, 1981.

Be it enacted by the Legislature of the State of Bihar in the forty-fourth year of the Republic of India as follows :—

1. **Short title, extent and commencement.**— (1) This Act may be called the Bihar Non-Government Secondary Schools (Takingover of Management and Control) (Amendment) Act, 1993.

(2) It extends to the whole of the State of Bihar.

(3) It shall come into force at once except Section 4 of this Act which shall be deemed to have come into force with effect from the 24th January, 1982.

2. **Amendment of Section 8 of Bihar Act 33 of 1982.**—In the Bihar Non-Government Secondary Schools (Takingover of Management and Control) Act, 1981 (Bihar Act 33 of 1982) (hereinafter referred to the Act) sub-section (3) of Section 3 shall be deleted

3. **Amendment of Section 6 of Bihar Act 33 of 1982.**—In the said Act in section 6—

(i) For sub-section (2). the following shall be substituted ; na nely :—

"(2) The President shall be nominated by the State Government or by an officer authorised by the State Government and he shall hold office for a period of five years or till the pleasure of the State Government whichever is earlier".

(ii) In sub-section (3) after the words "members of the committee" the words, brackets and figures "except the President mentioned in sub-section 2" shall be inserted.

4. **Amendment of section 10 of Bihar Act 33 of 1982.**—In the said Act in Section 10 for sub-section (5), the following shall be substituted namely :—

"(5) The pay/allowances/terms and conditions of services of the Chairman

and members of the Board shall be such as may be determined by the State Government from time to time".

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THE BIHAR BUILDINGS (LEASE, RENT AND EVICTION) CONTROL (AMENDMENT) ACT, 1993
BIHAR ACT NO. 4 OF 1994

An Act to amend the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982.

Be it enacted by the Legislature of the State of Bihar in the Forty-fourth year of the Republic India as follows ;

1. **Short title, extent and commencement.**—(1) This Act may be called the Bihar Buildings (Lease, Rent and Eviction) Control (Amendment) Act, 1993.

(2) It shall come into force at once.

(3) It shall extend to the whole of the State of Bihar.

2. **Amendment of section 8 of Bihar Act 4 of 1983.**—In the Bihar Buildings (Lease, Rent and Eviction) Control Act, 1982 (Bihar Act 4 of 1983) (hereinafter referred to as the said Act) in clause (C) of sub-section (1) of section 8—

(i) The word 'Other' after the word "Any" shall be deleted and it shall be deemed always to have been deleted.

(ii) In the second line word and figure "1st November, 1941" shall be substituted by the word and figure "1st December, 1980" and it shall be deemed to have always been substituted.

(iii) In the fifth line of Proviso the word and figure "1st November, 1941" shall be substituted by the word and figure "1st December, 1983" and shall be deemed to have always been substituted.

3. **Amendment of section 9 of Bihar Act 4 of 1983.**—In the said Act for the proviso of sub-section (4) of Section 9 the following shall be substituted, namely :—

"Provided that if the Controller is satisfied that the repairs involved were due to the negligence of the tenant, he will order the tenant to make such repairs and the cost of repair shall be borne by the tenant and the same shall not be recoverable from the landlord by deduction from the rent."

4. **Amendment of Section 11 of Bihar Act 4 of 1983.**—In Section 11 of the said Act,—

(i) In clause (d) of sub-section (1), for the words "three months" the words "Two Months" ; shall be substituted ;

(ii) In clause (f) of sub-section (1) for the word "request" the word "order" shall be substituted.

5. **Amendment of section 12 of Bihar Act 4 of 1983.**—In proviso of section 12 of the said Act the words "at the rate of" shall be deleted.

6. **Insertion of new section after section 14 of Bihar Act 4 of 1983.**—The following new section shall be inserted after section 14 of the said Act, namely ;—

14A. Special provisions for active/Ex-servicemen of Military.—(1) Where the landlord has been in active military service or is ex-serviceman or has been discharged or retired from service or is to retire or has died while

in such active service and any member of his family is in actual necessity of house, then on an application being filed by the landlord or any member of his family, the competent court after issuing notice of fifteen days and on being satified after hearing that the claim of the landlord is genuine, by order, shall direct the tenant to give possession of the house to the landlord or his family member and if the Court is not satisfied with the claim of such landlord, it shall pass order rejecting the application ;

Provided that if the landlord or his widow has more than one residential house, then such landlord or his widow shall have no right to take back possession of more than one house or if the Ex-serviceman has rented any one house to the present tenant after his retirement, in such circumstances the right to have possession of one residential house shall be limited to only one application of landlord or his widow or his authorised person.

(2) (a) The Court on the receipt of application shall issue summon to the tenant within seven days of filing the application.

(b) In addition to this, the Court shall direct to send summon to the tenant or his agent by registered post with acknowledgement and also to stick the second copy of the summon on any conspicuously visible portion of the house.

(c) If the summon with the registered post is returned with the endorsement of the postman that the tenant or his agent has refused to take the summon, the Court after enquiry as it may think fit and being satisfied with the endorsement, may declare that the summon has been legally served on the tenant.

(d) The tenant against whom service of summon has been declared valid, will have no right to oppose the petition of eviction till an affidavit within fifteen days of service of summon is filed mentioning the reasons on the basis of which he opposes the petition of eviction and obtains the permission of the Court on it. In case of failure of his appearance and obtaining Court's permission, the statement of the landlord or his widow, father, mother, son, grandson, or widow daughter-in-law, as the case may be, shall be deemed to be accepted by the tenant and the petitioner shall be entitled for the order of eviction of the tenant.

(e) The Court within fifteen days of the filing of such affidavit, shall give permission to the tenant to oppose the application if the tenant has disclosed such facts which can debar the landlord, his widow, father, mother, son, grandson or widow daughter-in-law in getting back the possession of that residential house.

(f) Where permission to oppose the application has been granted to the tenant, the Court shall not fix the date more than one month from the date of permission given to the tenant to oppose the application and hearing of the application shall continue day to day till the disposal af the case and as far as possible the decision shall be given within two months from the commencement of the hearing.

(g) The Court shall give appropriate time to the tenant to give back the possession of the residential house to the landlord, his widow, father, mother, son, grandson or widow daughter-in-law, as the case may be, but will not extend that time altogether more than two months.

(h) Where such proceeding of enquiry in which this section is applica-

ble including the recording of the statements of witnesses the Court will follow the procedure of a Court of Small Causes.

(3) No appeal shall lie against the order of the Court to give possession of any residential house as per procedure laid down in this section ;

Provided that the revision petition may be filed in the High Court within sixty days from the date of the order of eviction.

(4) No Court other than the High Court shall stay the operation of eviction during the pendency of the revision petition filed under sub section (3) of this section.

(5) Where the tenant has been evicted from the residential house and the landlord or his widow, father, mother, son, grandson or widow daughter-in-law, as the case may be, does not occupy within three months continuously from the date of eviction or let out the house or a position thereof to a person other than the evicted tenant within three years of eviction of the tenant, then the evicted tenant may file application in the Court for order for restoration of possession of that residential house to him on the same terms and conditions which were applicable at the time of his eviction and the Court shall pass order accordingly and also order to pay cost.

7. **Amendment of section 15 of Bihar Act 4 of 1983.**—In sub-section (1) of section 15 of the said Act for the words "before and after", the words "before or after" shall be substituted.

1. **Amendment of section 16 of Bihar Act 4 of 1983.**—In section 16 of the said Act—

(i) Sub-section (1) shall be deleted.

(ii) In sub-section (2), bracket and figure "(2)" shall be deleted.

9. **Amendment of section 19 of Bihar Act 4 of 1983.**—In sub-section (2) of section 19 of the said Act, for the word "contemplated", the word "bona fide" shall be substituted,

10. **Amendment of section 22 of Bihar Act 4 of 1983.**—In the said Act, after sub-section (2) of section 22, the following new sub-section shall be added, namely :—

"(3) The Controller, appellate authority and Divisional Commissioner in exercise of powers conferred upon them under this Act, shall be treated as a Court under sections 195 and 340 of Criminal Procedure Code, 1973 (Act 2, 1974) and any proceeding before them shall be regarded as judicial proceeding under sections 193 and 228 of Indian Penal Code."

Published in the Bihar Gazette, Extraordinary, dated February 3, 1994.

THE BIHAR EXCISE (AMENDING AND VALIDATING) ORDINANCE, 1994

BIHAR ORDINANCE NO. 1 OF 1994

An Ordinance to amend the Bihar Excise Act, 1915.

Preamble.—Whereas, it is necessary in public interest that out of the cost price of Country Spirit the amount of money earmared for the maintenance of warehouse be regulated ;

And, whereas, the price of country spirit to be supplied to the retailer by the Contractor (Wholesale suppliers) from the Warehouse belonging to the Contractor or the State or another person, is fixed by the Government of Bihar, on the basis of negotiations between the Contractor and the Government and such price being known as the cost price of country spirit

payable by the retailers at the time of taking or issue of Country liquor from the warehouse concerned ;

And, whereas, as a regulatory measure the maintenance of warehouse is the responsibility of the contractor ;

And, whereas, in the year 1989 in C.W.J.C No. 4722 of 1989 and other similar cases a situation arose whereby and whereunder the Patna High Court ordered that till contract is settled and till further order from the Court, the supply of country liquor shall be made to the retailers directly by the State through its Officers ;

And, whereas, in pursuance to the said direction the country liquor had to be supplied from different warehouses situated in the State, by the State Government through its Officers ;

And, whereas, after the Final Order of the High Court in the above writs in the year 1990 the situation emerged that in certain areas of the State the supply of country liquor to the retailers continued to be made by the State Government through its officers due to non-functioning of the concerned Contractors ;

And, whereas, during this period the warehouses were required to be maintained, by the State ;

And, whereas, in fixing the price of country liquor to be supplied by the Contractor holding exclusive privilege licence the State Government has taken into account the cost of spirit, the cost of transportation of such spirit, the cost of maintenance of warehouses, sales tax and dividend ;

And, whereas, while fixing the price of country liquor to be supplied to the retailor, the following components of cost were included in the cost price ;—

		Rs.
Cost of spirit	....	1.72
Transit/Working wastages	....	0.08
Warehouse maintenance charges	....	0.70
Transportation charges	....	0.45
Sales Tax	....	0.27
Dividend	....	0.20
Total	....	Rs. 3.42

And, whereas, Government had decided that country spirit would be supplied at the rate of Rs. 3.42 per L.P. litre which include Rs. 0.70 per L.P. Litre as maintenance charge of warehouses ;

And whereas, the amount deposited by the retailers as price of country spirit was to be deposited in Treasury through Bank draft and thereafter the distillers (suppliers) were to be paid the amount after deduction of the component of price meant for maintenance of warehouse, that is Rs. Rs. 3.42 — 0.70 = 2.72.

And, whereas, in some cases by mistake the entire amount of Rs. 3.42 was paid to the Distillers (Suppliers) ;

And, whereas, some of the distillers (Suppliers) challenged the authority of the State regarding deduction of warehouse maintenance charges from the cost price fixed for supply of country spirit to warehouses ;

And, whereas, in C.W.J.C. No. 6868/90 and in other similar writ petitions the Court held that in the absence of rules the State Government is not authorised to fix the price of country spirit and to make deductions of maintenance of warehouse charges therefrom ;

And, whereas, it has become necessary to levy and validate the deduction/realisation of warehouse maintenance charges from the cost price of the country spirit fixed by the State in the year 1990 ;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar Excise Act, 1915 (Bihar Act II of 1915), in the manner hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance :—

1. **Short title, extent and commencement.**— (1) This Ordinance may be be called the **Bihar Excise (Amending and Validating) Ordinance, 1994.**

(2) It shall extend to the whole of the State of Bihar.

(3) It shall be deemed to have come into force with effect from the 20th February, 1990.

2. **Insertion of new sections after section 22 of Bihar Act II of 1915.**— In the Bihar Excise Act, 1915 (Bihar Act II of 1915) (hereinafter referred to as the said Act), after section 22, the following new sections shall be inserted, namely :—

"22-A. **The fixation of cost price of country liquor by the State Government.**— (1) The State Government while granting exclusive privilege of manufacturing, supplying wholesale or of selling wholesale or retail of country liquor may fix the cost price which includes the price of the spirit, the transportation charges, warehouse maintenance charges, taxes, if any and other charges, such as bottling, packing etc. and dividend.

(2) Any person to whom the State Government has granted exclusive privileges of manufacturing, supplying wholesale or selling wholesale or retail country liquor during the year 1990 wherein the cost price of the country liquor was fixed by the State Government taking different components into account including warehouse maintenance charges at the rate of 0.70 paise per L.P. litre shall be deemed to have been fixed under this section.

22-B. **Validating of cost price of country liquor and realisation of warehouse maintenance charges.**— (1) Notwithstanding any judgment, decree or order of any court, Tribunal or Authority the price of country spirit, including the warehouse maintenance charges at the rate of 70 paise per L.P.L. fixed during the year 1990 shall be deemed to have been fixed under this Ordinance and any amount collected from the retailer as a cost price of country liquor per L.P. litre shall be paid to or payable to the Contractor (Distiller)/Supplier after deducting at the rate of 70 prise per L.P. litre as the maintenance charges of the warehouse and the said amount shall not be payable to the Contractor (Distiller)/Supplier.

(2) The amount so collected shall be deemed to have been collected under the provision of this Ordinance and the said amount of warehouse maintenance charges shall not be refundable and no Court, Tribunal or Authority shall order for refund of such amount ;

Provided that where the amount collected from the retailer has been paid to the Contractor (Distiller)/Supplier, the State Government shall realise such amount from the Contractor (Distiller)/Supplier and the Contractor shall be required to refund the said amount to the State Government :

Provided further that the State Government may adjust, the said amount from any amount due or payable to the Contractor by the Government :

Provided also that the said amount shall be spent by orders of the Excise Commissioner under administrative instructions issued for the maintenance of warehouses ;

Provided further also that any amount realised on account of warehouse maintenance charges but refunded to the supplier, under the order of any Court, Tribunal or Authority shall be refunded by the supplier and the State Government shall recover the same from the Contractor (Distiller)/ Supplier as arrears of revenue.

23. **Overriding effect of the Ordinance.**—Notwithstanding anything to the contrary contrained in any judgment, decree or order passed by any Court and in any other law for the time being in force, the provisions of this Ordance shall have effect."

3. **Repeal and savings.**—(1) The Bihar Excise (Amending and Validating) Ordinance, 1993 (Bihar Ordinance No. 26 of 1993) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Ordinance as if this Ordinance were in force on the day on which such thing was done or action taken.

A.R. KIDWAI,
Governor of Bihar.

Dated, the 2nd February, 1994.

Published in the Bihar Gazette, Extraordinary, dated February 3, 1994.

THE BIHAR MOTOR VEHICLES TAXATION ORDINANCE, 1994
BIHAR ORDINANCE NO. 2 OF 1994

An Ordinance to regulate imposition and levy of tax on Motor Vehicles in the State of Bihar.

Preamble.—Whereas, the legislature of the State of Bihar is not in session ;

And Whereas, the Government of the Bihar is satisfied that circumstances exist, which render it necessary for him to take immediate steps to regulate imposition and levy of tax on Motor Vehicles ;

And Whereas, the instructions of the President have been obtained under the proviso to clause (1) of Article 213 of the Constitution of India ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India the Governor is pleased to promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Bihar Motor Vehicles Taxation Ordinance, 1994.

(2) It shall extend to the whole of the State of Bihar.

(3) It shall come into force with immediate effect.

2. **Definitions.**—In this ordinance unless there is anything repugnant in the subject or context,—

(a) "Additional Motor Vehicle Tax" means the tax imposed under the provisions of Sub-section (2) of section 5 of this Ordinance.

(b) "Appellate Authority" means the authority specified under section 16 of this ordinance.

(c) "Certificate of registration" "good", "goods carriage", gross vehicle weight, "Invalid carriage Motor cab", "Motor cycle", "Motor Vehicle", "Private service vehicle", "trailer" "unladen weight", "registering authority", "tractor", "transport vehicle" and any other expression, not specifically defined in this ordinance shall have the same meaning assigned to them respectively in the Motor Vehicles Act, 1988 (Act No. 59 of 1988).

(d) "Motor Vehicle Tax" means the tax imposed under Sub-section (1) of Section 5 of this Ordinance.

(e) "One-time tax" means the tax imposed on personalised vehicles under Sub-section (1) of Section 7 of the Ordinance.

(f) "Owner" means every registered owner or person having possession or control of a motor vehicle.

(g) "Passenger" means person travelling in a public service vehicle or any private service vehicle other than the driver or the conductor or an employee of the permit holder on duty

(h) "Personalised Vehicle" means a motor cycle (including moped, scooter and cycle with attachment for propelling the same by mechanical power) and a Motor car with seating capacity of more than three but not exceeding five which are solely used for personal purposes.

(i) "Prescribed" means prescribed by rules made under this Ordinance.

(j) "Registered owner" means a person in whose name a motor vehicle is registered under the Motor Vehicles Act, 1988.

(k) "Revisional Authority" means the authority specified under section 17 of this ordinance.

(l) "Schedule" means the schedules appended to this Ordinance.

(m) "Taxing officer" means any officer appointed under section 3.

(n) "State Transport Commissioner" means the Transport Commissioner appointed by the State Government.

(o) "Tax token" means the tax token granted under sub-section (f) of section 11.

(p) "Tax" means the tax imposed under this Ordinance and includes Motor Vehicles tax, Additional Motor Vehicle tax and differential tax or One-time whichever is applicable.

(q) "Year" means a financial year.

3. **Appointment of taxing officer.**—The State Government may by notification appoint any person as Taxing officer to exercise and perform within such areas as may be specified in such notification the powers and duties conferred and imposed on the taxing officer by this Ordinance or by Rules made thereunder.

4. **Remission for Vehicles used solely for agriculture.**—Nothing in this Ordinance shall apply to a motor vehicle used solely for the purposes of agriculture.

Explanation.—A motor vehicle used for transporting agricultural pro-

PART IX

WEST BENGAL ACT & ORDINANCES

1995

Published in the Calcutta Gazette Extraordinary, Part III, dated 22nd April, 1994.

THE WEST BENGAL PANCHAYAT (AMENDMENT) ACT, 1994
WEST BENGAL ACT XVIII OF 1994

An Act to amend the West Bengal Panchayat Act, 1973.

Whereas it is expedient to amend the West Bengal Panchayat Act, 1973 (W. Ben. Act 41 of 1973), for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. **Short title and commencement.**— (1) This Act may be called the West Bengal Panchayat (Amendment), Act, 1994.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint ; and different dates may be appointed for different provisions of this Act and for different areas.

2. **Amendment of Section 1 of West Ben. Act 41 of 1973.**—For sub-section (2) of Section 1 of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the principal Act), the following sub-section shall be substituted :—

"(2) It extends to the whole of West Bengal, except the areas to which the provisions of—

(a) the Cooch Behar Town Committee Act, 1903 (Cooch Behar Act 4 of 1903),

(b) the Contonments Act, 1924 (2 of 1924),

(c) the Chandernagore Municipal Act, 1955 (W. Ben Act 11 of 1955),

(e) the Howrah Municipal Corporation Act, 1980 (W. Ben. Act 58 of 1980),

(f) the Calcutta Municipal Corporation Act, 1980 (W. Ben. Act 59 of 1980),

(g) the Siliguri Municipal Corporation Act, 1990 (W. Ben. Act 30 of 1990),

(h) the Asansol Municipal Corporation Act, 1990 (W. Ben. Act 31 of 1990),

(i) the Chandernagore Municipal Corporation Act, 1990 (W. Ben. Act 32 of 1990), or

any parts or modifications thereof, apply or may hereafter be applied.".

3. **Amendment of Section 2.**—In Section 2 of the principal Act,—

(1) for clause (11a), the following clauses shall be substituted :—

'(11a) "Gram Sabha" means a body consisting of persons registered in the electoral rolls pertaining to a Gram declared as such under sub-section (1) of Section 3 ;

(11b) "Gram Sansad" means a body consisting of persons registered at any time in the electoral rolls pertaining to a constituency of a Gram Panchayat delimited for the purpose of last preceeding general election to the Gram Panchayat ;

(11c) "hill areas" has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988 (W. Ben. Act 13 of 1988) ;';

(2) for clause (13), the following clause shall be substituted :—

'(13) "mouza" means an area defined, surveyed and recorded as such in the revenue record of a district and referred to in clause (g) of article 243 of the Constitution of India as the lowest unit of area for the purpose of public notification for specifying a village ;';

(3) after clause (15), the following clauses shall be inserted :—

'(15a) "office bearer" means the Pradhan, Upa-Pradhan, Sabhapati, Sahakari Sabhapati, Sabhadipati or Sahakari Sabhapati or any two or more of them together ;

(15b) "Panchayat" means an institution of Self-Government, and includes Gram Panchayat, Panchayat Samiti, Mahakumma Parishad to Zilla Parishad :';

(4) after clause (20), the following clause shall be inserted :—

'(10) "recognised political party" means a national party or a State party recognised as such by the Election Commission of India by notification for the time being in force ;";

(5) after clause (26), the following clause shall be added :—

'(26A) "State Election Commissioner" means the State Election Commissioner referred to in sub-section (1) of Section 3 of the West Bengal State Election Commission Act, 1994 (W. Ben. Act 8 of 1994)' ;

4. **Amendment of Section 4.**—In Section 4 of the principal Act,—

(1) for the words "of the West Bengal Legislative Assembly in force on the last date of nominations for Panchayat election", the words "prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election" shall be substituted ;

(b) for the words "more than twenty-five", the words "more than thirty" shall be substituted ;

(c) after the provisos, the following provisos shall be inserted :—

"Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing and by notification, order fresh determination of the members of a Gram Panchayat or fresh reservation on rotation of the number of seats in such Gram Panchayat and, on such order being issued by the State Election Commissioner, the determination of the number of seats shall be varied for three successive general elections :

Provided also that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.";

(2) in sub-section (3), to clause (b), the following proviso shall be added ;—

"Provided that such division into constituencies and such allocation of seats shall be made in such manner that the ratio between the population of the Gram and the number of number of seats in the Gram Panchayat shall, so far as practicable, be the same in any Gram Panchayat.";

(3) in sub-section (4), the words and figures ", notwithstanding anything contained in Section 210," shall be omitted.

5. **Substitution of new section for Section 7.**—For Section 7 of the principal Act, the following section shall be substituted :—

"7. **Term of office of members of Gram Panchayat**—(1) The members of a Gram Panchayat shall, subject to the provisions of Sections 11 and 213A, hold office for a period of five years from the date appointed for its first meeting and no longer.

(2) There shall be held a general election for the constitution of a Gram Panchayat within a period not exceeding five years from the date of the previous general election held for that Gram Panchayat :

Provided that if the first meeting of the newly-formed Gram Panchayat cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Gram Panchayat under this Act or any other law for the time being in force, for a period not exceeding three months or until the date on which such first meeting of the newly-formed Gram Panchayat is held, whichever is earlier."

6. **Omission of Section 7A.**—Section 7A of the principal Act shall be omitted.

7. **Amendment of Section 8.**—In Section 8 of the principal Act,—

(1) in clause (h), for the words "expiration of the sentence.", the words "expiration of the sentence ; or" shall be substituted ;

(2) after clause (h), the following clauses shall be inserted :—

"(i) he has not attained the age of twenty one years on the date fixed for the scrutiny of nominations for any election ;

'(j) he has been convicted under Section 9A at any time during the last ten years ;

(k) he has been convicted under Section 189 at any time during the last ten years ;

(l) he has been surcharged or charged under Section 192 at any time during the last ten years ; or

(m) he has been removed under Section 213 at any time during the period of last five years.".

8. **Amendment of Section 9.**—In Section 9 of the principal Act,—

(1) in sub-section (1),—

(a) in the proviso, for the words "shall not be eligible for such election.", the words "shall neither participate in, nor be eligible for, such election." shall be substituted ;

(b) after the proviso, the following provisos shall be inserted :—

"Provided further that subject to such rules as may be made by the State Government in this behalf, the offices of the Pradhan and the Upa-Pradhan shall be reserved for the Scheduled Castes and the Scheduled Tribes

in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed :

Provided also that the offices of the Pradhan and the Upa-Pradhan in any Gram Panchayat having the Scheduled Castes or the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Gram, shall not be considered for allocation by rotation ;

Provided also that in the event of the number of Gram having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent. of the total population, falling short of the number of the offices of the Pradhan and the Upa-Pradhan required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the Pradhan and the Upa-Pradhan beginning from the Gram having higher population of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total seats required for reservation is obtained :

Provide also that not less than one-third of the total number of the offices of the Pradhan and the Upa-Pradhan reserved for the Scheduled Castes and the Scheduled Tribes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be :

Provided also that not less than one-third of the total number of offices of the Pradhan and the Upa-Pradhan in a district including the offices reserved for the Scheduled Castes and the Scheduled Tribes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed :

Provided also that notwithstanding anything contained in the foregoing provisions of this Act, the principle of rotation for the purpose of reservation of office under this sub-section shall commence from the first general elections to be held after the coming into force of Section 8 of the West Bengal Panchayat (Amendment) Act, 1994, and the roaster for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation :

Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the Pradhan or the Upa-Pradhan, be disqualified for election to any office not so reserved :

Provided also that the provisions for reservation of the offices of the Pradhan and the Upa-Pradhan for the Scheduled Castes and the Scheduled Tribes shall cease have effect on the expiry of the period specified in article 334 of the Constitution of India." ;

(2) in sub-section (3), the proviso shall be omitted ;

(3) in sub-section (6), after the words "the prescribed authority may appoint", the words "for a period of thirty days at a time" shall be inserted.

9. **Amendment of Section 12.**—In Section 12 of the principal Act,—

(a) for the words "A Pradhan or an Upa-Pradhan", the words "Subject to the other provisions of this section, a Pradhan or an Upa-Pradhan" shall be substituted,

(b) for the words "by a resolution of the Gram Panchayat carried by the majority of the existing members of the Gram Panchayat", the words, figures, letter and brackets "by a resolution carried by the majority of the existing members referred to in clause (i) of sub-section (2A) of Section 4" shall be substituted, and

(c) after the proviso, the following provisos shall be added :—

"Provided further that no meeting for the removal of the Pradhan or the Upa-Pradhan under this section shall be convened within a period of one year from the date of election of the Pradhan or the Upa-Pradhan;

Provided also that there shall not be more than one resolution for the removal of the Pradhan or the Upa-Pradhan within a period of six months.".

10. **Amendment of Section 16A.**—In Section 16A of the principal Act,—

(1) for the words "Gram Sabha", wherever they occur, the words "Gram Sansad" shall be substituted ;

(2) after sub-section (4), the following sub-section shall be inserted :—

"(4A) One-tenth of the total number of members shall form a quorum of a Gram Sansad :

Provided that no quorum shall be necessary for an adjourned meeting which shall be held at the same time and place after seven days." ;

(3) after sub-section (5), the following sub-section shall be inserted :—

"(6) A Gram Sansad shall guide and advise the Gram Panchayat in regard to the schemes for economic development and social justice undertaken or proposed to be undertaken in its area and may, without prejudice to the generality of such guidance and advice,—

(a) identify, or lay down principles for identification of, the schemes which are required to be taken on priority basis for economic development of the village,

(b) identify, or lays down principles for identification of, the beneficiaries for various poverty alleviation programmes,

(c) constitute one or more beneficiary committees comprising not more than nine persons, who are not members of the Gram Panchayat, for ensuring active participation of the people in implementation, maintenance and equitable distribution of benefits of one or more schemes in its area,

(d) mobilise mass participation for community welfare programmes and programmes for adult education, family welfare and child welfare,

(e) promote solidiarity and harmony among all sections of the people irrespective of religion, faith, caste, creed or race,

(f) record its objection to any action of the Pradhan or any other member of the Gram Panchayat for failure to implement any development scheme properly or without active participation of the people of that area.".

11. **Insertion of new Section 16B.**—After Section 16A of the principal Act, the following section shall be inserted :—

"16B. **Public meeting of the Gram Sabha.**—(1) Every Gram shall have a Gram Sabha consisting of persons registered in the electoral roll pertaining

to the area of the Gram.

(2) Every Gram Panchayat shall hold within the local limits of the Gram an annual meeting, ordinarily in the month of December every year, of the Gram Sabha after completion of the half-yearly meeting of the Gram Sansads.

(3) One-twentieth of the total number of members shall form a quorum for a meeting of a Gram Sabha :

Provided that no quorum shall be necessary for an adjourned meeting which shall be held at the same time and place after seven days.

(4) The Gram Panchayat shall, at least seven days before the date of holding the meeting referred to in sub-section (2), give public notice of such meetings by beat of drums as widely as possible, announcing the agenda, place, date and hour of the meeting. A notice of such meeting shall also be hung up in the office of the Gram Panchayat. Similar publicity shall also be given in the case of an adjourned meeting.

(5) A meeting of the Gram Sabha shall be presided over by the Pradhan of the concerned Gram Panchayat or, in his absence, by the Upa-Pradhan.

(6) All questions coming before a Gram Sabha shall be discussed and points raised there shall be referred to the Gram Pauchayat for its consideration.

(7) The Gram Sabha shall deliberate upon, recommend for, and adopt resolution on, any matter referred to in sub-section (6) of Section 16A and Section 17A.

(8) The Gram Panchayat shall, on considering and collating the resolutions of the Gram Sansads, place before the Gram Sabha the resolutions of the Gram Sansads and the views of the Gram Panchayat together with its report on the actions taken and proposed to be taken on them for deliberation and recommendation by the Gram Sabha.

(9) The proceeding of the meetings of the Gram Sabha shall be recorded by such officer or employee of the Gram Panchayat or, in the absence of officers and employees of the Gram Panchayat, by such member of the Gram panchayat as may be authorised by the presiding member in this behalf. Such proceedings shall be read out before the meeting is concluded and the Presiding momber shall then sign the proceedings.".

12. **Amendment of Section 17A.**—In Section 17A of the principal Act,—

(1) in sub-section (1),—

(a) in clause (a),—

(i) for the words "Gram Sabha", the words "Gram Sansad" shall be substituted ;

(ii) in sub-clause (ii), the words "and such report shall be deemed to be modified to the extent of the recommendations and suggestions, if any, of the Gram Sabhas of the Gram" shall be omitted ;

(b) in clause (b), for the words "Gram sabha", the words "Gram Sansad" shall be substituted ;

(2) in sub-section (2), for the words "Gram Sabha" the words "Gram Sansad" shall be substituted ;

(3) in sub-section (3), for the words "Gram Sabha", the words "Gram Sansad" shall be substituted ;

(4) after sub-section (4), the following sub-section shall be inserted :—

"(5) Any omission to act under section 16A or section 16B or under clause (a) or clause (b) of sub-section (1), or sub-section (3), of this section shall be deemed to be a wilful omission or refusal to carry out the provisions of this Act within the scope and meaning of section 213 or incompetence to perform, or persistent default in the performance of, the duties under this Act within the scope and meaning of section 214 as the case may be."

13. **Amendment of section 18.**—In section 18 of the principal Act, after sub-section (3), the following sub-section shall be inserted :—

"(4) The Gram Panchayat shall, as soon may be after the preparation of the report under sub-section (1) and the report and the list under sub-section (2), place the same in the meetings of the Gram Sansads and the Gram Sabha for discussion and adoption with modifications, if any, and shall furnish copies of the report under sub-section (1) as so modified to the prescribed authority referred to in sub-section (1) and the Panchayat Samiti ordinarily by the middle of January every year."

14. **Amendment of section 19.**—Section 19 of the principal Act shall be renumbered as sub-section (2) of that section and—

(1) before sub-section (2) as so renumbered, the following sub-section shall be inserted :—

"(1) A Gram Panchayat shall function as a unit of self-Government and, in order to achieve economic development and secure social justice for all, shall, subject to such conditions as may be prescribed or such directions as may be given by the State Government,—

(a) prepare a development plan for the five-year term of the office of the members and revise and update it as and when necessary with regard to the resources available ;

(b) prepare an annual plan for each year by the month of October of the preceding year for development of human resources, infra-structure and civic amenities in the area ;

(c) implement schemes for economic development and social justice as may be drawn up by, or entrusted upon it."

(2) in sub-section (2), for the words "Subject to such conditions as may be prescribed,", the words "Without prejudice to the generality of the provisions of sub-section (1) and subject to such conditions as may be prescribed or such directions as may be given by the State Government," shall be substituted.

15. **Amendment of section 23.**—In Section 23 of the principal Act,—

(1) to sub-section (1), the following proviso shall be added :—

"Provided that such erection of new structure or new building or such addition to any structure or building or such permission of the Gram Panchayat shall be subject to such rules as may be made by the State Government in this behalf :

Provided further that a Gram Panchayat shall not accord permission for erection of a new structure, or construction of a new building, having provisions for erection or construction, as the case may be, of any dry latrine, by whatever name called ".

(2) in sub-section (2),—

(a) the words, "not exceeding twenty five rupees", shall be omitted ;

(b) in the first proviso, for the words "two hundred square feet;", the words "eighteen square metres where such structure or shed does not cover

more than three-fourths of the total area of the land (including appurtenant land) and there is a setback of not less than nine-tenth metre on the road-side," shall be substituted ;

(3) in sub-section (3), for the words "within such time as may be prescribed,", the words "in accordance with such rules as may be made by the State Government in this behalf," shall be substituted.

16. **Amendment of Section 45.**—In Section 45 of the principal Act, to sub-section (5), the following proviso shall be added :—

"Provided that any casual absence of the Pradhan or the Upa Pradhan for a period not exceeding five consecutive days shall not be construed as absence of the Pradhan or the Upa-Pradhan, as the case may be, for the purpose of this sub-section.".

17. **Amendment of Section 46.**—In Section 46 of the principal Act, in sub-section (1), in clause (a),—

(1) in sub-clause (i), for the words "half per centum" the words "one per centum" shall be substituted.

(2) in sub-clause (ii), for the words "one per centum", the words "two per centum" shall be substituted.

17. **Amendment of Section 47.**—In Section 47 of the principal Act,—

(1) in sub-section (1),—

(a) in clause (vii) for the word 'licence" in the two places where it occurs, the word "registration" shall be substituted ;

(b) after the clause (ix), the following clauses shall be inserted :—

'(v) fees on licence on dogs and birds and other domestic pet animals ;

"(xi) a general sanitary rate where arrangement for the construction and maintenance of public latrines is made by the Gram Panchayat within its jurisdiction ;

(xii) a drainage rate where arrangement for regular clearance of common drains is made by the Gram Panchayat within its jurisdiction ;

(xiii) fees for grazing cattle on grazing land vested in, or under the management and control of, the Gram Panchayat ;

(xiv) fees for use of burning ghat vested in, or under the management and control of, the Gram Panchayat ;

(xv) fees on registration for shallow tube-wells fitted with motor driven pumps sets and installed for irrigation for commercial purposes, subject to such terms and conditions as may be prescribed.

Explanation.—In this clause, "commercial purpose" includes any purpose for which irrigation water is supplied to the land of any person other than the owner of the shallow tube-well, on realisation of water rates, by whatever name called, from the owner of such land." ;

(2) after sub-section (2), the following sub-sections shall be inserted :—

"(3) The scales of tolls, and the fees or rates and the terms and conditions of imposition thereof, shall be such as may be provided by bye-laws.

(4) Such bye-laws may provide for exemption from all or any of the tolls, fees or rates in any class of cases.".

19. **Amendment of Section 47A.**—In Section 47A of the principal Act, the words, "with the previous sanction of the State Government," shall be omitted.

20. Amendment of Section 48.—In Section 48 of the principal Act, —

(1) in sub-section (1), the words "and shall submit the budget to the Panchayat Samiti having jurisdiction over the area of the Gram" shall be omitted ;

(2) for sub-section (2), the following sub-section shall be substituted :—

"(2) (a) The budget prepared under sub-section (1) shall be written in vernacular of the district or the locality concerned and copies of the budget shall be pasted in such prominent places within the Gram Panchayat as may be prescribed, inviting objections and suggestions by the members of the Gram Sabha.

(b) Copies of the budget shall be forwarded to the Panchayat Samiti having jurisdiction over the Gram for its views, if any.

(c) The budget with objections, suggestions and views, if any, received from various quarters shall, within such period as may be prescribed, be placed in the meeting of the Gram Sabha for discussions proposing modification, if any, of the budget.

(d) The Gram Panchayat shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in presence of atleast half of the existing members, consider the objections, suggestions and views, if any, and the discussions in the meeeting of the Gram Sabha, and approve the budget with modifications, if any.

(e) A copy of the budget approved under clause (d) shall be forwarded to the Panchayat Samiti having jurisdiction." ;

(3) in sub-section (3) for the words "by the Panchayat Samiti." the words, letter, figure and brackets "under clause (d) of sub-section (2)." shall be substituted.

21. Amendment of Section 49.—Section 49 of the principal Act shall be renumbered as sub-section (1) of that section and—

(1) in sub-section (1) as so renumbered, for the words "submit it to the Panchayat Samiti for approval", the words "approve it in a meeting specially convened for the purpose and in the presence of atleast half of the existing members" shall be substituted ;

(2) after sub-section (1) as so re-numbered, the following sub-section shall be inserted :—

"(2) A copy of the supplementary estimate as approved under sub-section (1) shall be forwarded to the Panchayat Samiti having jurisdiction.".

22. Amendment of Section 94.—In Section 94 of the principal Act,—

(1) in sub-section (2),—

(a) in clause (ii),—

(i) for the words "of the West Bengal Legislative Assembly in force on the last date of nomination for Panchayat election pertaining to the area comprised in the Block,", the words "pertaining to the area comprised in the Block, prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election" shall be substituted ;

(ii) after the provisos, the following provisos shall be inserted :—

"Provided also that such division into constituencies shall be made in such manner that the ratio between the population of a Block and the number of constituencies in the Panchayat Samiti shall, so far as practicable, be the

same in any Panchayat Samiti ;

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing and by notification, order fresh determination of the number of members in a Panchayat Samiti or fresh reservation on rotation of the number of seats in that Panchayat Samiti and, on such order being issued by the State Election Commissioner, the determination of the number of members and the reservation of the number of seats shall not be varied for three successive general elections :

Provided also that that the provisions for reservation of seats for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India ;" ;

(b) in sub-clause (b) of clause (iii), for the words "having a place of residence in the Block ;", the words "registered as electors within the area of the Block ;" shall be substituted ;

(2) in sub-section (3), the words and figures ", notwithstanding anything contained in Section 210," shall be omitted.

23. Substitution of new section for Section 96.—For Section 96 of the principal Act, the following section shall be substituted :—

"**96. Office of members of Panchayat Samiti.**—(1) The members of a Panchayat Samiti, other than co-officio members, shall subject to the provisions of sections 100 and 213A, hold office for a period of five years from the date of its first meeting and no longer.

(2) There shall be held a general meeting for the constitution of a Panchayat Samiti within a period not exceeding five years from the date of the previous general election held for that Panchayat Samiti :

Provided that if the first meeting of the newly formed Panchayat Samiti cannot be held before the expiry of the period of five years under sub section (1), the State Government may, by order, appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Panchayat Samiti under this Act or any other law for the time being in force, for a period not exceeding three months or until the date on which such first meeting of the newly formed Panchayat Samiti is held, whichever is earlier.".

24. Omission of section 96A.—Section 96A of the principal Act shall be omitted.

25. Amendment of section 97.—In section 97 of the principal Act,—

(1) in clause (h), for the words "expiration of the sentence", the words "expiration of the sentence ; or" shall be substituted ;

(2) after clause (h), the following clauses shall be inserted :—

"(i) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election ; or

(j) he has been convicted under section 189 at any time during the last ten years ; or

(k) he has been surcharged or charged under section 192 at any time during the last ten years ; or

(l) he has been removed under section 213 at any time during the last five years,".

26. Amendment of section 98.—In section 98 of the principal Act,—

(1) in sub-section (1),—

(a) in the first proviso, for the words "shall not be eligible for such election", the words "shall neither participate in, nor be eligible for such election," shall be substituted ;

(b) after the provisos, the following provisos shall be inserted :—

"Provided also that subject to such rules as may be made by the State Government in this behalf, the offices of the Sabhapati and the Sahakari Sabhapati shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices within a district as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within such district taken together bears with the total population in the same area, and such offices shall be subject to allocation by rotation in the manner prescribed :

Provided also that the offices of the Sabhapati and the Sahakari Sabhapati in any Panchayat Samiti having the Scheduled Castes or the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Block, shall not be considered for allocation by rotation :

Provided also that in the event of the number of blocks having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, falling short of the number of the Sabhapati and the Sahakari Sabhapati required for reservation in a district, the State Election Commissioner may, by order, include, for the purpose of reservation, other such offices of the Sabhapati and the Sahakari Sabhapati beginning from the Block having higher proportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained :

Provided also that not less than one-third of the total number of the offices of the Sabhapati and the Sahakari Sabhapati reserved for the Scheduled Castes and the Scheduled Tribes in a district, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes as the case may be :

Provided also that not less than one-third of the total number of offices of the Sabhapati and the Sahakari Sabhapati in a district including the offices reserved for the Scheduled Castes and the Scheduled Tribes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed :

Provided also that notwithstanding anything contained in the foregoing provisions of this sub-section or elsewhere in this Act, the principal of rotation for the purpose of reservation of offices under this sub-section shall commence from the first election to be held after the comming into force of section 26 of the West Bengal Panchayat (Amendment) Act, 1994, and the roaster for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation :

Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this sub-

section, shall, if eligible for the office of the Sabhapati or Sahakari Sabhapati, be disqualified for election to any office not so reserved :

Provided also that the provisions for reservation of the offices of the Sabhapati and the Sahakari Sabhapati for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India." ;

(2) in sub-section (3), the proviso shall be omitted ;

(3) in sub-section (6), after the words "the prescribed authority may appoint", the words "for a period of thirty days at a time" shall be inserted.

27. **Amendment of section 101.**—In section 101 of the principal Act,—

(a) for the words "A Sabhapati or a Sahakari Sabhapati", the words "Subject to the other provisions of this section, a Sabhapati or a Sahakari Sabhapati" shall be substituted,

(b) for the words "by a resolution of the Panchayat Samiti carried by the majority of the existing members of the Panchayat Samiti", the words, figures and brackets "by a resolution carried by the majority of the existing members referred to in clause (ii) of sub-section (2) of section 94" shall be substituted, and

(c) after the proviso, the following provisos shall be inserted :—

"Provided further that no meeting for the removal of the Sabhapati or the Sahakari Sabhapati under this section shall be convened within a period of one year from the date of election of the Sabhapati or the Sahakari Sabhapati :

Provided also that there shall not be more than one resolution for the removal of the Sabhapati or the Sahakari Sabhapati within a period of six months." ;

28. **Amendment of section 109.**—In section 109 of the principal Act, in sub section (1),—

(1) for the words "A Panchayat Samiti shall have power to—", the following words, figure and brackets shall be substituted :—

"A Panchayat Samiti shall function as a unit of Self-Government and, in order to achieve economic development and secure social justice for all, shall prepare—

(i) a development plan for the five-year term of the office of the members, and

(ii) an annual plan for each year by the month of January of the preceding year,

in furtherance of its objective of development of the community as a whole and socio-economic upliftment of the individual members of the community and, without prejudice to the generality of the above provisions, shall have power to—" ;

(2) in clause (a), for sub-clause (i), the following sub-clause shall be substituted :—

"(i) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, fisheries, live stock, khadi cottage and small-scale industries, co-operative movement, rural credit, water-supply, irrigation and minor irrigation including water management and watershed development, public health and sanitation including establishment and maintenance of dispensaries and hospitals, communi-

cation, primary and secondary education, adult and non-formal education, welfare of students, social forestry and farm forestry including fuel and fodder, rural electrification including distribution, non-conventional energy source, women and child development, social welfare and other objects of general public utility ;" ;

(3) clause (f) shall be omitted.

29. **Amendment of Section 114A.**—In Section 114A of the principal Act,—

(1) for sub-section (1), the following sub-section shall be substituted :—

"(1) Without prejudice to the generality of the power under Section 114 and notwithstanding anything contained in Sections 23, 24 and 25, the State Government may, in the public interest, declare by notification, its intention to prepare and publish a Development Plan in respect of an area within the jurisdiction of a Panchayat Samiti, in accordance with such procedure as may be prescribed or in accordance with the provisions of any other law for the time being in force and, upon the issue of such notification, no new structure or new building shall be erected or constructed or no addition to any structure or building shall be made in such area except with the permission granted by the Panchayat Samiti or any authority, person or persons as may be empowered by the Panchayat Samiti in this behalf and except in accordance with such specifications and conditions as may be prepared and published by the Panchayat Samiti or such authority, person or persons, as the case may be" ;

(2) in sub-section (2), for the words and figures "the provisions of Section 23", the words and figures "the provisions of Sections 23, 24 and 25" shall be substituted ;

(3) sub-section (7) shall be omitted ;

(4) in sub-section (8),—

(a) after the words "if it appears to the panchayat Samiti", the words, figure and brackets "or the authority, person or persons empowered under sub-section (1)" shall be inserted, and

(b) for the words "the Panchayat Samiti may", the words "the Panchayat Samiti or the authority, person or persons as aforesaid may" shall be substituted ;

(5) in clause (b) of sub-section (11), after the words "Panchayat Samiti" in the two places where they occur, the words, figures and brackets "or the authority, person or persons empowered under sub-section (1)" shall be inserted ;

(6) in sub-section (15), for the words, figure and brackets "as may be laid down in the notification under sub-section (1)", the words, figure and brackets "as may be laid down by the Panchayat Samiti or the authority, person or persons empowered under sub-section (1)" shall be substituted.

3. **Amendment of Section 125.**—In Section 125 of the principal Act, in sub-section (3), to clause (b), the following proviso shall be added ;—

"Provided that pending the selection of Secretary to a Sthayee Samiti under this clause or during the casual vacancy, if any, in the post of Secretary to a Sthayee Samiti, the Secretary of the Panchayat Samiti, shall act as the Secretary to the Sthayee Samiti,".

31. **Amendment of Section 135A.**—In Section 135A of the principal

Act, the words, "with the previous sanction of the State Government" shall be omitted.

32. **Amendment of Section 136.**— In Section 136 of the principal Act,—

(1) in sub-section (1), the words "and submit the budget to the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be, having jurisdiction over the area of the Block" shall be omitted ;

(2) for sub-section (2), the following sub-sections shall be substituted :—

"(2) (a) The budget under sub-section (1) shall be written in English and in vernacular of the district or the locality concerned and copies of the budget in both the languages shall be pasted in such prominent places within the Block as may be prescribed, inviting objections and suggestions from the electors of the Panchayat Samiti.

(b) Copies of the budget shall be forwarded to the Zilla Parishad or Mahakuma Parishad or the Council, as the case may be, having jurisdiction over the area of the Block for views, if any.

(c) The Panchayat Samiti shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of atleast half of the existing members, consider the objections, suggestions and views, if any, and approve the budget with modifications, if any.

(d) A copy of the budget approved under clause (c) shall be forwarded to the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be, having jurisdiction,".

33. **Amendment of section 137.**—Section 137 of the principal Act, for the words "by the Zilla Parishad or the Mahakuma Parishad or the Council,", the words, figures and brackets "under clause (c) of sub-section (2) of section 136," shall be substituted.

34. **Amendment of section 138.**—In section 138 of the principal Act, shall be renumbered as sub-section (1) of that section and—

(1) in sub-section (1) as so renumbered, for the words "may submit it to the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be, for approval", the words "may approve it in a meeting specially convened for the purpose and in the presence of atleast half the existing members" shall be substituted ;

(2) after sub-section (1) as so renumbered, the following sub-section shall be inserted :—

"(2) A copy of the supplementary estimate as approved under sub section (1) shall be forwarded to the Zilla Parishad or the Mahakuma Parishad or the Council, as the case may be, having jurisdiction.".

35. **Amendment of 140.**—In section 140 of the principal Act,—

(1) in sub-section (2),—

(a) in clause (ii),—

(i) for the words beginning with "two persons," and ending with "pertaining to any Block within the district,", the words "such number of persons, not exceeding three, as may be prescribed on the basis of the number of voters in the area from each Block within the district, the Block being divided for the purpose into constituencies in the prescribed manner, elected by secret ballot at such time and in such manner as may be prescribed from amongst the persons whose names are included in the electoral roll,

pertaining to any Block within the district, prepared in accordance with such rules as may be made in this behalf by the State Government and in force on such date as the State Election Commissioner may declare for the purpose of an election," shall be substituted ;

(ii) after the provisos, the following provisos shall be inserted :—

"Provided also that such division into constituencies shall be made in such manner that the ratio between the total population of all the Blocks in a district and the number of constituencies in the Zilla Parisad shall, so far as practicable, be the same in any Zilla Parishad :

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing and by notification, order fresh determination of the number of members in a Zilla Parishad or fresh reservation on rotation of the number of constituencies in that Zilla Parishad and, on such order being issued by the State Election Commissioner, the determination of the number of members and the reservation of the number of constituencies shall not be varied for three successive general elections :

Provided also that the provisions for reservation of seats for the Scheduled Castes and Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India.";

(b) in clause (iv), for the words "having a place of residence in the district", the words "registered as electors within the area of any Block within the district," shall be substituted ;

(2) in sub-section (3), the words and figures "notwithstanding anything contained in Section 210," shall be omitted.

36. **Substitution of new section for Section 141.**—For Section 141 of the principal Act, the following section shall be substituted :—

"141. **Term of office of Zilla Parishad.**—(1) The members of a Zilla Parishad, other than ex-officio members, shall, subject to the provisions of Sections 145 and 213A, hold office for a period of five years from the date of its first meeting and no longer.

(2) There shall be held a general election for the constitution of a Zilla Parishad within a period not exceeding five years from the date of the previous general election held for such Zilla Parishad :

Provided that if the first meeting of the newly-formed Zilla Parishad cannot be held before the expiry of the period of five years under sub-section (1), the State Government may, by order, appoint, any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Zilla Parishad under this Act or any other law for the time being in force, for a period not exceeding three months or until the date on which such first meeting of the newly-formed Zilla Parishad is held, whichever is earlier.".

37. **Omission of Section 141A.**—Section 141A of the principal Act shall be omitted.

38. **Amendment of Section 142.**—In Section 142 of the principal Act,—

(1) in clause (h), for the words "expiration of the sentence", the words "expiration of the sentence ; or" shall be substituted ;

(2) after clause (h), the following clauses shall be inserted :—

"(i) he has not attained the age of twenty-one years on the date fixed for the scrutiny of nominations for any election ; or

(j) he has been convicted under Section 189 at any time during the last ten years ; or

(k) he has been surcharged or charged under Section 192 at any time during the last ten years ; or

(l) he has been removed under Section 213 at any time during the last five years.".

39. Amendment of Section 143.—In Section 143 of the pricipal Act,—

(1) in sub-section (1),—

(a) in the first proviso, for the words "shall not be eligible for such election ", the words "shall neither participate in. nor be eligible for, such election." shall be substituted,

(b) after the provisos, the following provisos shall be inserted :—

"Provided also that subject to such rules as may be made by the State Government in this behalf, the office of the Sabhapati and Sahakari Sabhapatti shall be reserved for the Scheduled Castes and the Scheduled Tribes in such manner that the number of offices so reserved at the time of any general election shall bear, as nearly as may be, the same proportion to the total number of such offices in West Bengal as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in all the Blocks within West Bengal taken together bears with the total population in the same area and such offices shall be subject to allocation by rotation in the manner prescribed :

Provided also that the offices of the Sabhadhipati and the Sahakari Sabhadhipati in any Zilla Parishad having the Scheduled Castes and the Scheduled Tribes population, as the case may be, constituting not more than five per cent of the total population in the Blocks within the district, shall not be considered for allocation by rotation :

Provided that in the event of the number of Zilla Parishad areas having the Scheduled Castes or the Scheduled Tribes population constituting more than five per cent of the total population, falling short of the number of offices of the Sabhadhipati, required for reservation in West Bengal, the State Election Commissioner, may, by order include, for the purpose of reservation other such offices of the Sabhadhipati and the Sahakari Sabhadhipati beginning from the districts having higher droportion of the Scheduled Castes or the Scheduled Tribes, as the case may be, until the total number of seats required for reservation is obtained :

Provided also that not less than one-third of the total number of offices of the Sabhadhipati and the Sahakari Sabhadhipati reserved for the Scheduled Castes and the Scheduled Tribes in West Bengal, shall be reserved by rotation for the women belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be :

Provided also that not less than one-third of the total number of offices of the Sabhadhipati and the Sahakari Sabhadhipati in West Bengal including the offices reserved for the Scheduled Castes and the Scheduled Tribes, shall be reserved for the women, and the offices so reserved shall be determined by rotation in such manner as may be prescribed :

Provided also that notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, the principle of rotation for the purpose of reservation of offices under this sub-section shall commence from the first election to be held after the coming into force of section 39 of the West Bengal Panchayat (Amendment) Act, 1994, and the

PART X

NOTIFICATIONS—WEST BENGAL GOVERNMENT AND CALCUTTA HIGH COURT

1995

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FINANCE DEPARTMENT

No. 1059-F.T.—(*Calcutta, the 20th April, 1994*).—In exercise of the powers conferred by Section 22 of the West Bengal Luxury Tax Act, 1994 (West Ben. Act XV of 1994), the Governor is pleased hereby to make the following rules :—

Rules

1. Short title and commencement.—(1) These rules may be called the **West Bengal Luxury Tax Rules, 1994.**

(2) They shall come into force on the 1st day of May, 1994.

2. Definitions.—(1) In these rules, unless there is anything repugnant in the subject or context—

(a) "the Act" means the Bengal Luxury Tax Act, 1994 (West Ben. Act XV of 1994) ;

(b) "Additional Commissioner of Commercial Taxes" means the person appointed by the designation by the State Government under notification No. 1058-F.T. dated the 20th April, 1994 ;

(c) "agent" means a person authorised by a stockist in writing to appear on his behalf before the prescribed authority or any person appointed under sub-section (1) of Section 3 to assist it, or the Tribunal, as the case may be ;

(d) "appropriate Commercial Tax Officer" in respect of any particular stockist means the Commercial Tax Officer within whose jurisdiction the stockist's place of business is situated or, if the stockist has more than one place of business in West Bengal, the Commercial Tax Officer within whose jurisdiction the chief place of business in West Bengal is situated ;

(e) "appropriate Government Treasury" means—

(i) for a licensed stockist in Calcutta or a stockist whose place of business is in Calcutta,—

(A) the Calcutta Branch of the Reserve Bank of India for payments under the Act exceeding Rs. 500/-, and

(B) such head office, main office, branch or branches in Calcutta of—

(1) the State Bank of India,

(2) any subsidiary bank as defined in the State Bank of India (Subsi-

diary Banks) Act, 1959 (38 of 1959), and

(3) a corresponding new Bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970),

as may be notified by the State Government for the purposes of accepting deposits for payment under the Act, subject to such restrictions if any, as may be specified in the notification issued in this behalf ;

(ii) for a licensed stockist outside Calcutta or a stockist whose chief place of business is outside Calcutta, the Treasury or Sub-Treasury, as the case may be, of the sub-division where the dealer's chief place of business is situated ;

(f) "Assistant Commissioner" means the person appointed by that designation by the State Government under notification No. 1058-F.T., dated the 20th April, 1994 ;

(g) "Calcutta" means the area described in Scheduled I to the Calcutta Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980) ;

(h) "Certificate Officer" has the same meaning as in clause (3) of Section 3 of the Bengal Public Demands Recovery Act, 1913 (Ben. III of 1913) ;

(i) "Collector" means, in respect of any particular area, the officer exercising in such area the functions of a Collector under Revenue Recovery Act, 1890 (1 of 1890) ;

(j) "Commercial Tax Officer" means the person appointed by that designation by the State Government under notification No. 1038-F.T., dated the 20th April, 1994 ;

(k) "form" means a form appended to these rules ;

(l) "Inspector" means the person appointed by that designation by the State Government under notification No. 1051-F.T., dated the 20th April, 1994 ;

(m) "place of business" means any place where a stockist keeps stock of luxuries, or accounts, and includes any warehouse of a stockist ;

(n) "return period" means in relation to a stockist, the month for which returns are to be furnished by such stockist under these rules ;

(o) "section" means a section of the Act ;

(p) "warehouse" means any enclosure, building or premises in which a stockist keeps his stock of any luxuries

(2) All expressions used in these rules but not defined, and defined in the Act shall have the same meanings as in the Act.

3. For the purposes of these rules an Inspector shall be subordinate to a Commercial Tax Officer, a Commercial Tax Officer shall be subordinate to an Assistant Commissioner, and an Assistant Commissioner shall be subordinate to an Additional Commissioner of Commercial Taxes.

4. The prescribed authority may, by general or special order, delegate to an officer appointed under sub-section (1) of Section 3 to assist it to exercise the powers described in column (3) of the Table below in respect of the sections mentioned in the corresponding entries in column (2) of the said Table ; but it shall not delegate any such power to any officer below the rank specified in the corresponding entry in column (4) of the said Table.

TABLE

Serial No.	Section	Description of power	Designation of officer
(1)	(2)	(3)	(4)
1	6	To grant a licence to a stockist ; to impose penalty on him for failure to obtain a licence after being liable to pay luxury tax ; to amend and to cancel a licence	Commercial Tax Officer
	6	To demand from any licensed stockist reasonable security for the proper payment of luxury tax	Assistant Commissioner
2	9	To make an assessment of luxury tax, to impose penalty, to determine the interest payable by a stockist or rectify the amount of such interest ; to fix a date for payment of tax, penalty or interest and to exercise all other powers under Section 9	Commercia lTax Officer
3	10	To refund excess tax, penalty or interest	Commercial Tax Officer
4	11	To require a licensed stockist to keep prescribed accounts	Assistant Commissioner
5	12	To require production and explanation of accounts, register or documents and to furnish information referred to in sub-section (1)	Inspector
6	12	To inspect all accounts, registers and documents and all luxuries kept in stock	Inspector
7	12	To enter and search any place of business	Inspector
8	12	To seize accounts, registers, documents and to exercise all powers under Section 12	Inspector
9	13	To seize luxuries from a stockist	Commercial Tax Officer
10	14	To require the Bureau under sub-section (4) of Section 14 to transfer any accounts. registers or documents seized by it	Commercial Tax Officer
11	15	To revise an assessment made or an order passed by a Commercial Tax	Assistant Commissioner

(1)	(2)	(3)	(4)
		Officer or an Inspector	
12	21	To compound offences and to determine and accept composition money	Commercial Tax Officer

Grant of licence, amendment and cancellation thereof, and imposition of penalty for default in obtaining licence

5. (1) An application for licence under Section 6 shall be—

(a) made by a stockist in form I to the appropriate Commercial Tax Officer ;

(b) signed in the case of a proprietory business, by the proprietor, or in the case of a firm, by one of its partners, or in the case of a business owned by a Hindu undivided family, by the "Karta" of the family, or in the case of a company incorporated under the Companies Act, 1956 (1 of 1956), by a director, managing agent or principal officer thereof, or in the case of any other association of persons, by the principal officer managing the business ; and

(c) verified in the manner provided in the said form I.

(2) The application form referred to in sub-rule (1) shall be duly filled in.

6. (1) When the prescribed authority or where the powers in this behalf are delegated under sub-section (4) of Section 3 to any officer, such officer, after making such enquiry as the prescribed authority or the officer considers necessary, is satisfied that the stockist has correctly given all the necessary information and that the application filed by him under rule 5 is bonafide and in order, he shall grant a licence and issue it to the stockist as provided in sub-rule (2).

(2) The licence shall be issued in form II specifying the particulars indicated therein, and such particulars shall be described in the same terms as are used by the stockist in his application form filed under rule 5.

(3) Any stockist may obtain from the appropriate Commercial Tax Officer, on payment of a fee of twenty rupees, a duplicate copy of any licence which has been issued to him and which may have been lost destroyed or defaced.

(7) The prescribed authority or, where the powers in this behalf are delegated under sub-section (4) of Section 3 to any officer, such officer may, for good and sufficient reasons to be recorded in writing, cancel, modify or amend any licence in accordance with information furnished by the stockist or otherwise received, after giving the stockist a reasonable, opportunity of being heard.

8. (1) If a stockist, while being liable to pay tax under Section 5, keeps stocks of, or disposes of, any luxuries but fails to obtain licence under sub-section (1) of Section 6, and it appears necessary to the prescribed authority or, where powers in this behalf are delegated under sub-section (4) of Section 3 to any officer, to such officer, to impose penalty under sub-section (2) of Section 6, the prescribed authority or the officer, as the case may be, shall serve a notice in form III upon the stockist proposing imposition of penalty

a sum, not less than five thousand rupees but not exceeding ten thousand rupees for each month of default in obtaining licence, as may be specified in the said notice, and calling upon the stockist to show cause, if any, against the proposed imposition of penalty, and the date of showing such cause shall be fixed ordinarily not less than twenty days after the date of issue of such notice.

(2) After considering the cause, if any, shown by the stockist in pursuance of the notice referred to in sub-rule (1), the prescribed authority or the officer referred to in the said sub-rule, as the case may be, may impose such penalty as the prescribed authority or the officer may think fit, and serve a notice in form IV upon the stockist specifying a date, not less than twenty days after the issue of the notice, by which payment shall be made, and a date by which the receipted challan in proof of payment of such penalty shall be produced.

9. Every licensed stockist shall furnish to the appropriate Commercial Tax Officer return in form V monthly within ten days from the expiry of each month.

10. Every stockist liable to pay interest under Section 8 shall furnish to the appropriate Commercial Tax Officer a statement in form VI showing the interest payable by him in respect of period or periods—

(a) under sub-section (1) of the said section where returns are furnished,

(b) under sub-section (1) of the said section where returns are not furnished, or

(c) under sub-section (2) of the said section,

within seven days from the date of payment made under sub-rule (1) or sub-rule (2), as the case may be, of rule 12.

Payment of tax and interest

11. Every stokist who is required to furnish return under rule 9 shall pay the full amount of luxury tax payable by him according to such return before furnishing such return.

12. (1) Every stockist liable to pay interest under sub-section (1) of section 8 in respect of any period,—

(a) where he has furnished return for such period, shall pay such interest at the time of making payment of tax payable in respect of such period,

(b) where he has not furnished return for such period, shall pay such interest for such period by the date specified in the notice for making payment of assessed luxury tax for such period.

(2) Every stockist liable to pay interest under sub-section (2) of section 8 in respect of any period shall pay such interest by the date specified in the notice referred to in sub-rule (4) of rule 15 for making payment of assessed luxury tax due for such period.

13. (1) Every stockist shall make payment of the luxury tax, interest and penalty into the appropriate Government Treasury, and no such payment shall be accepted at the office of the prescribed authority or at the office of any of the officers appointed under sub-section (1) of section 3 to assist the prescribed authority.

(1) Challans for the purpose of making payments shall be obtainable at any Government Treasury or at the office of any Commercial Tax Officer

and separate challans shall be used for the purpose of making payments of interest.

(3) Challans shall be filled up in quadruplicate, one copy of such challan shall be retained by the appropriate Government Treasury, one copy shall be sent to Commercial Tax Officer concerned and the other two copies shall be returned to the stockist, duly signed, as proof of payment.

14. (1) Every stockist referred to in rule 11 shall attach one copy of the receipted challan or, as the case may be, one copy of each of the receipted challans to the return referred to in rule 9 when furnishing such return to the appropriate Commercial Tax Officer.

(2) Every stockist referred to in rule 12 shall attach one copy of the receipted challan to the statement referred to in rule 0 when furnishing such statement to the appropriate Commercial Tax Officer.

Assessment of tax, imposition of penalty or determination of interest under section 9 and refund under section 14 of the amount paid in excess.

15. (1) When it appears to a Commercial Tax Officer to be necessary to make an assessment under sub-section (1), or sub-section (2), of section 9 in respect of a stockist in relation to a period or a year comprising periods he shall serve a notice in form VII upon him—

(a) calling upon him to produce his books of accounts and other documents which such officer wishes to examine together with any objection which the stockist may wish to prefer and any evidence which he may wish to produce in support thereof, and,

(b) stating the return period or periods in respect of which assessment is proposed to be made,

and he shall fix a date, ordinarily not less than twenty days after the date of issue of the notice, for production of such accounts and documents and for considering any objection which the stockist may prefer.

(2) A stockist who has been served with a notice under sub-rule (1) may prefer any objection personally or through an agaent, or he may send it in writing.

(3) After considering any objection made by the stockist and any evidence produced in support thereof, the Commercial Tax Officer shall assess under sub-section (1) or sub-section (2), as the case may be, of section 9 the amount of tax (if any) and penalty (if any) to be paid by the stockist, and shall briefly but clearly record the reasons on which he bases his order.

(4) If any sum is payable by the stockist under sub-rule (3), the Commercial Tax Officer shall serve a notice in form VIII upon him specifying the date, not less than thirty days after the service of the notice by which payment shall be made, and he shall also fix a date on which the stockist shall produce the receipted challan in proof of such payment, and if no sum is payable, he shall serve a notice in the said form intimating the result of assessment made.

16. (1) Where a Commercial Tax Officer is satisfied that a stockist is liable to pay interest,—

(a) under sub-section (1) of section 8 in respect of any period, and where—

(i) return for such period is furnished before assessment under sub-section (1) of section 9, he shall determine under sub-section (5) of that

section the interest payable for such period at any time after the furnishing of such return,

(ii) return for such period is not furnished before assessment under sub-section (1) of section 9, he shall determine under sub-section (5) of that section the interest payable for such period at the time of the assessment or thereafter,

but no such determination of interest shall be made after the expiry of one year from the date of such assessment.

(b) under sub-section (2) of section 1 in respect of any period or periods, he shall immediately after full payment of luxury tax or commencement of proceedings under sub-section (10) of section 9, whichever is earlier, determine under sub-section (5) of section 9 the interest payable by such stockist in respect of such period or periods.

(2) Where there is an apparent mistake in determination of interest under sub-section (5) of section 9, the Commercial Tax Officer shall rectify the amount of interest in accordance with the provisions of sub-section (7) of that section.

(3) If the amount of interest determined under clause (a), or clause (b) of sub-rule (1), or after rectification under sub-rule (2), is more than the amount, if any, already paid by the stockist, the Commercial Tax Officer shall serve a notice in form IV upon him demanding payment of the amount of interest due and specifying therein the date, not less than thirty days after the service of the notice, on which payment shall be made, and he shall also fix a date on which the stockist shall produce the receipted challan in proof of such payment, but if the amount of interest determined under sub-rule (1), or after rectification under sub-rule (2), is equal to the amount already paid by the stockist, the Commercial Tax Officer shall record the result in writing

17. If the amount of—

(a) luxury tax assessed under sub-section (1), or sub-section (2), and penalty imposed under sub-section (1) of section 9, or

(b) interest determined under sub-section (5), or determined after rectification under sub-section (7) of section 9, is lower than the amount already paid by the stockist for the same period and if there are any arrears of luxury tax assessed, penalty imposed or interest determined under section 9 remaining due from him in respect of any other period, the Commercial Tax Officer shall serve upon the stockist, a notice in form VIII, if the excess payment relates to luxury tax or penalty, or a notice in form IX, if the excess payment relates to interest, as the case may be, notifying him of the adjustment of amount of such excess payment towards such arrears. If there are no such arrears, or if after such adjustment there is any arrear, the Commercial Tax Officer shall serve upon the stockist a notice in the same form for refunding the amount paid in excess by the stockist and along with such notice he shall send to the stockist a Refund Adjustment Order authorising the stockist to deduct the sum to be refunded from the amount of luxury tax payable in respect of the return periods following the date of receipt of the Refund Adjustment Order.

18 (1) Subject to the provisions of sub-rule (4) of rule 29, in case of default in making payment of any luxury tax, penalty or interest due by

the date specified in a notice of demand issued under sub-rule (4) of rule 15 or sub-rule (3) of rule 16 the authority issuing the notice shall apply to the Certificate Officer within whose jurisdiction the business or head office, as the case may be, of the stockist from whom the luxury tax, penalty or interest is due, is located, for recovery of unpaid amount of luxury tax, penalty or interest, as the case may be, as an arrear of land revenue payable to the Collector.

(2) If any amount of luxury tax, penalty or interest is modified in consequence of any assessment made or order passed on appeal, revision or review under section 15 after the proceedings under sub-rule (1) have been commenced, a notice in form XV shall be sent to the stockist and the Collector intimating the modified amount of tax, penalty or interest due, and the Collector shall, upon receipt of such information, take steps for recovery of the amount so modified as if the proceedings were started for such modified amount.

(3) If any amount of luxury tax, penalty or interest is modified in consequence of any assessment made or order passed on appeal, revision or review under section 15, then, in cases other than those referred to in sub-rule (2), the Commercial Tax Officer shal lserve a notice in form XV intimating stockist the modified amount of luxury tax, penalty or interest payable by him, and—

(a) if any amount remains due for payment by the stockist, the Commercial Tax Officer shall fix date by which payment shall be made and the receipted challan in proof of such payment shall be produced before him,

(b) if the stockist has paid in excess of the amount due from him, the Commercial Tax Officer shall, after adjustment in the manner referred to in rule 17 with arrear of tax, penalty or interest, if any, in respect of any other period, send a notice in form XV intimating the stockist the details of such adjustment and the net amount of excess payment, and along with the notice a Refund Adjustment Order allowing the refund for the amount paid in excess.

(4) If the Assistant Commissioner is satisfied that the State Government is liable to pay interest under sub-section (6) of section 8, he shall determine such interest in accordance with the provisions of that sub-section and direct the appropriate Commercial Tax Officer to make payment of such interest to the stockist to whom the tax is refundable.

Maintenance and production of registers, accounts and documents and search and seizure thereof and search and seizure of luxuries.

19. (1) Every stockist who is liable to pay luxury tax under the Act shall maintain a true and up-to-date accounts of his stock of luxuries and disposal thereof in a register.

(2) The register referred to in sub-rule (1) shall be totalled atleast once in a month and shall be the basis of the return to be furnished under rule 9.

20 (1) The accounts, registers, documents and vouchers relating to stock of luxuries of a stockist and such other evidence required to explain the return referred to in rule 9 shall be preserved for a period of not less than eight years after the expiry of the period to which they relate or six years after the date of assessment or appellate order, as the case may be,

whichever ends later ; any loss of the aforesaid accounts, registers or documents shall be reported as soon as possible to the officer-in-charge of the nearest police station and to the appropriate Commercial Tax Officer.

(2) Any breach of sub-rule (1) shall be punishable with fine not exceeding five hundred rupees and when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of the offence.

21. (1) The prescribed authority or, where the powers in this behalf are delegated under sub-section (5) of section 3 to any officer, such officer may make inspection of accounts, registers, documents or stocks of luxuries of any stockist at the stockits's place of business or may require any stockist to produce his accounts, registers or documents at the office of the said authority or the officer.

(2) In making any inspection or in causing production referred to in sub-rule (1), strict regard shall be had to the necessity of not disturbing the business of the stockist or the work of his staff more than what is necessary for the purposes of ascertaining the required information.

22. (1) All searches and seizures under section 12 or section 13 shall, as far as possible, be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

(2) An officer exercising power under section 12 or section 13 may take the assistance of any police officer of the State Government.

23. (1) Where luxuries are seized under sub-section (1) of section 13 from a stockist on account of his failure to make payment of penalty imposed on him under sub-section (2) of section 6 or on account of his attempting to evade payment of luxury tax and the stockist fails to comply with the requirements of sub-section (1) of section 13 and get the seized luxuries released, the appropriate Commercial Tax Officer shall cause a notice in form X to be served upon the stockist informing the stockist of his intention to sell the luxuries seized from him in auction for the purpose of realisation of the unpaid amount of penalty or luxury tax, as the case may be, if he fails to take delivery of the seized luxuries on production of receipted challan as a proof of payment of penalty or luxury tax, as the case may be, on a date specified in the notice, and the said officer shall specify the date in the notice ordinarily not less than thirty days after the service of the notice.

(2) If the stockist fails to take delivery of the luxuries seized from him on or before the date specified in the notice issued under sub-rule (1) within such time allowed by the appropriate Commercial Tax Officer, such officer shall issue a proclamation for open auction for sale of such luxuries for cash on delivery fixing a date, not earlier than thirty days from the date of issue of such prolamation, and he shall mention in the proclamation the time and place of such sale with a description of the luxuries to be sold and publish such proclamation in two local newspapers. One copy of the proclamation shall be hung up for public view at the place where the sale is to take place and one copy shall be forwarded to the person from whom such luxuries are seized.

(3) The luxuries shall ordinarily be sold to the highest bidder but if the appropriate Commercial Tax Officer thinks that the highest offer is inadequate, he may make a verbal declaration at the time of bidding to that effect

and may adjourn the sale to some other date to be mentioned later on in another proclamation for auction sale. Such subsequent proclamation shall also be published in two local newspapers and copies thereof hung up at the place and forwarded to the stockist.

(4) The sale proceeds mentioned in sub-section (5) of Section 13 shall be deposited by the appropriate Commercial Tax Officer in the appropriate Government Treasury within seven days from the date of sale and the stockist shall be informed immediately thereafter of the balance referred to in sub-section (5) of Section 13 ; if the stockist makes an application within one year from the data of sale for refund of the balance amount, the said officer shall issue a Refund Payment Order (Cash) for such balance amount to the said stockist for encashment at the Government Treasury or the branch of the Reserve Bank of India specified in such order.

Appeal, revision and review

24. (1) An appeal against an order of assessment or determination of interest passed by a Commercial Tax Officer shall lie to the Assistant Commissioner and an appeal against such order passed by an Assistant Commissioner shall lie to the Additional Commissioner of Commercial Taxes as the prescribed authority may direct, or to the prescribed authority.

(2) An application for revision of an order, other than an order of assessment or determination of interest referred to in sub-rule (1), passed by an Inspector or a Commercial Tax Officer shall lie to the Assistant Commissioner, and an application for revision of such order passed by an Assistant Commissioner shall lie to the Additional Commissioner of Commercial Taxes as the prescribed authority may direct, or to the prescribed authority.

(3) The prescribed authority may, if in case he thinks fit so to do, transfer any appeal or application for revision from one Assistant Commissioner to another and thereupon the Assistant Commissioner to whom the appeal or application is so transferred shall proceed with and dispose of the appeal or application, as the case may be, as if it had been duly filed before him.

(4) Application for revision under clause (c) of sub-section (3) of Section 15 shall lie to the Tribunal in the following cases ;

(a) against a final appellate order from an order of assessment and determination of interest passed by an Assistant Commissioner or the prescribed authority under sub-section (1) of Section 15 ;

(b) against a final revisional order from an order of assessment and determination of interest passed under clause (a) or clause (b) of sub-section (3) of Section 15 by the prescribed authority or an Additional Commissioner of Commercial Taxes or an Assistant Commissioner, as the case may be, revising on his own motion or on application any order of assessment of tax or determination of interest.

(5) No officer below the rank of the prescribed authority shall review any order which has been passed by any of his predecessors-in-office ; if it is considered necessary to modify any such order, application for revision is to be made to the next higher authority.

25. (1) The memorandum of appeal—

(a) shall contain the following particulars :—

(i) the date of order appealed against ;

(ii) the name and designation of the officer who passed the order ;

(iii) the grounds of appeal briefly but clearly set out ;

(iv) the date of receipt of the notice of demand issued under sub-section (1), sub-section (2), or sub-section (5) or sub-section (7), of Section 9, as the case may be, in respect of the order appealed against ;

(v) the amount of luxury tax and interest admitted to be due from the appellant ;

(b) shall be accompanied by a copy of the order appealed against ;

(c) shall be endorsed by the appellant or by an agent authorised in writing in this behalf by the appellant, as follows :—

(i) such amount of tax and interest as the appellant admits to be due from him has been paid ; and

(ii) that to the best of his knowledge and belief the facts set out in the memorandum are true ;

(d) shall be signed by the appellant or by an agent authorised in writing in this behalf by the appellant and shall be accompanied by the fee prescribed in rule 31 ;

(e) shall, as far as possible, be in form XIII.

(2) Where an application is made by a stockist for revision or review of order, other than an order of assessment of luxury tax or determination of interest made under Section 9, provisions of sub-rule (1), except sub-clause (i) of clause (c) and clause (e) of that sub-rule, shall apply mutatis mutandis.

(3) Where an application is made by a stockist for revision or review against an order of assessment of luxury tax or determination of interest under Section 9,—

(a) in case of revision and review, provisions of sub-rule (1), except clause (e) of the said sub-rule, shall apply mutatis mutandis, and

(b) in case of revision, application shall be filed as far as possible, in form XIV.

26. If a stockist intends to pray for stay of recovery of the disputed amount of luxury tax, penalty or interest arising out of an order appealed against or sought to be revised or reviewed, he shall make a stay petition containing, inter alia, substance of facts leading to the exact amount of luxury tax, penalty or interest sought to be stayed and the disputed amount, details of payment of tax before and after the said order and reasons in brief for seeking stay, and such stay petition shall be presented along with the memorandum of appeal or application for revision or review, as the case may be.

27. (1) A memorandum of appeal referred to in sub-rule (1), or an application for revision referred to in sub-rule (3) as the case may be, of rule 25 shall be filed in duplicate, and the original copy shall, after being verified in the manner indicated therein be signed by the stockist or by his agent authorised in this behalf.

(2) A memorandum of appeal or an application for revision or review shall be presented by the stockist or by his agent or sent by registered post to the authority referred to in sub-rule (1), sub rule (2), sub-rule (4) or sub rule (5), as the case may be, of rule 24.

(3) A memorandum of appeal, an application for revision or review or a stay petition sent by registered post shall be deemed to have been presented on the day on which it is delivered to the post office.

(4) No memorandum of appeal against an order of assessment or no application for revision or review of an order shall be entertained if the appellant or applicant satisfies the authority to which such memorandum or application is presented that he had sufficient cause for not presenting it within such period.

28. (1) The appellate or revisional authority may, before finally disposing of the matter, make such enquiry or cause such enquiry to be made or examine such books of accounts, registers or documents required for the purpose of the Act.

(2) Before any authority empowered under Section 15 passes any order in appeal, revision or review likely to affect any stockist adversely, he shall send to such stockist a notice in form XI unless such stockist is the appellant or applicant for revision or review, as the case may be, fixing a place and time, ordinarily not earlier than fifteen days for hearing any representation which such stockist wishes to make.

(3) The prescribed authority or any other authority,—

(a) to whom power in this behalf has been delegated by the prescribed authority, shall not, of his own motion, revise any assessment made or order passed under the Act or the rules made thereunder if the time within which an appeal or application for revision, as the case may be, may be made has not expired ;

(b) appointed under the Act to assist the prescribed authority, shall not, of his own motion review any assessment made or order passed under the Act or the rules made thereunder if the time within which an application for review may be made before him has not expired ;

(c) shall not revise under clause (a) or review under clause (b) any assessment or any other order if the assessment has been made or the order has been passed more than four years previously :

Provided that in computing the limit of four years for revision or review the period during which the prescribed authority or such other authority is restrained by an order of the Tribunal, the Taxation Tribunal or any Court from commencing or continuing any proceeding for such revision or review or, from commencing or continuing any enquiry or examination referred to in sub-rule (1), shall be excluded.

29. (1) If the applicant fails to comply with the requirements of sub-rule (1) of rule 25, the appeal may be rejected after giving the appellant such opportunity, as the appellate authority thinks fit, to amend the memorandum of appeal so as to bring it in conformity with such requirements.

(2) If the appellate authority does not reject the appeal under sub-rule (1), he shall fix a date for hearing the appellant or his agent, and he shall dispose of the appeal in accordance with the provisions of the Act and the rules made thereunder.

(3) The stay petition referred to in rule 26 shall be disposed of by the authority to whom it is presented, and in case the petition is presented to the authority referred to in sub-rule (1) or sub-rule (2), of rule 24, such petition shall be disposed of by the authority to whom it is presented within one month from the date of presentation.

(4) Pending the final decision of an appeal or application for revision,

the recovery of luxury tax assessed, penalty imposed or interest determined under the Act and not admitted by the stockist to be due from him, shall be stayed if so directed by the appellate or revisional authority, and not otherwise, on such terms or conditions as may be specified in the direction.

(5) A copy of every order passed upon an appeal or revision shall be sent to the officer whose order forms the subject matter of the appeal or revision proceedings and to the stockist concerned.

(6) When the Tribunal, prescribed authority or any other officer, as the case may be, reviews any order under sub-section (4) of Section 15, he shall record the reasons in writing.

Service of notices

30. (1) Any notice which is issued under the provisions of the Act or these rules or which is required to be issued for carrying out the purposes of the Act may be served on a stockist by any of the following methods, namely :—

(i) personally upon the addressee, if present ;
(ii) by messenger ;
(iii) by registered post :

Provided that if the authority issuing the notice is satisfied that an attempt has been made to serve a notice by any of the methods as aforesaid and the stockist is avoiding service or that for any other reason the notice cannot be served by any of such methods, the said authority may, after recording his reasons for so doing, cause such notice to be served by affixing a copy thereof in some conspicuous place in his office and also upon some conspicuous part of the last notified place of business of the stockist, and a notice so served shall be deemed to have been duly served.

(2) When a notice is sent by registered post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by a registered letter in transit unless the contrary is proved.

Fees

31. (1) The following fees shall be payable, by a stockist ;—

(a) upon a memorandum of appeal against, or upon an application or revision or review of, an order of assessment—five per cent of the amount of tax, penalty or interest in dispute (to the nearest rupee, subject to a minimum of one hundred rupees and maximum of one thousand rupees) ;

(b) upon an application for revision or review of an order other than an order of assessment—fifty rupees ;

(c) upon any other miscellaneous application for relief—two rupees.

(2) No fee shall be payable in respect of any application written in reply to a notice issued under these rules or application which asks only for information.

(3) All fees payable shall be paid in court fee stamps.

Payment of compensation money

32. (1) When any officer compounding any offence under section 21 accepts under that section any sum from any stockist by way of composition of such offence, he shall issue an order in form XII directing the Officer-in-charge of the appropriate Government Treasury to receive on his behalf the sum specified in the order, and he shall make the order over to the stockist for presentation at the Treasury at the time of payment, and shall

send a copy of the order to the Officer-in-charge of the Treasury.

(2) The officer compounding the offence shall also fix a date on which the stockist shall produce before such authority as he may direct a receipted challan in proof of payment.

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM I

Application for licence under Section 6 of the West Bengal Luxury Tax Act, 1994

(See rule 1)

To

The .....(Prescribed authority)

.....

I,..... ...son of. ....

on behalf of the stockist carrying on the business under the name and style .....situated at... .... (postal address), hereby apply for a licence under the West Bengal Luxury Tax Act, 1994.

The Municipal certificate of enlistment No. of the business .... and the said certificate was first issued on.....and the date of its last renewal is... .....

The Excise Licence No. of the business is ... . and the said licence was first issued on .....and the date of its last renewal is..... .....

The Registration Certificate No. of the business are (i). .....under the Bengal Finance (Sales Tax) Act, 1941 (Bom. Act VI of 1941), (ii)... ... under the West Bengal Sales Tax Act, 1954 (West Ben. Act IV of 1954) and (iii)... ... .under the Central Sales Tax Act, 1956 (74 of 1956).

The name(s) and address (es) of the proprietor/partners/principal/officer/ Direc)or/Managing Director of the business together with their age, father's name are shown in the statement below :—

Sl. No.	Name in full	Father's/ Husband's name	Age	Extent of interest in the business
(1)	(2)	(3)	(4)	(5)
Present address	Permanent address	Signature	Signature and address of witness attesting signature in col 8	
(6)	(7)	(8)	(9)	
1.				
2.				
3.				
4.				
5.				

My/Our business was first started on———
I/We manufacture/process/make (here insert the names of luxuries) ———for stocking and sale.

We import (here insert the names of luxuries)———for stocking and sale from outside West Bengal.

Location of factory (if any)———
Location of warehouses (if any)———
Complete list of additional places of business of the stockist.
The above statements are true to the best of my knowledge and belief.

Date——— Name of the applicant in full———

Signature———
Designation———

*Strike out portion or paragraph whichever is not applicable,
The application shall be signed in the manner prescribed in rule 5.

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM II

Licence

(See rule 6)

Licence No.———dated———is hereby granted to (name of stockist)———of (address of stockist)———under the West Bengal Luxury Tax Act, 1994. The business consists of———

*manufacturer/processing/making (here insert the names of luxuries)

*importing (here insert the names of luxuries)———from outside West Bengal.

The stockist's year shall run from 1st day of April to the 31st day of March and returns in Form V are to be furnished by the stockist monthly within 10 days from the end of the month according to the financial year.

The stockist has factory at———
The stockist keeps warehouse at———

(1) ———
(2) ———
(3) ———

(Seal) Signature———
Date——— (Prescribed authority)

*Strike out whichever is not applicable.

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM III

Notice of imposition of penalty under sub-section (2) of Section 9 of the West Bengal Luxury Tax Act, 1994

[See rule 8 (1)]

To

———(stockist)
of———(address)

Whereas I have information that you, a stockist under the West Bengal Luxury Tax Act, 1994, have become liable to pay luxury tax under Section 4

of the said Act but failed to obtain a licence under Section 6 within the period specified in the said section ;

And whereas it appears necessary to impose on you a penalty under sub-section (2) of Section 6 of the said Act ;

You are hereby directed to attend in person or by an agent at (place) ——————on (date)——————at (time)——————and to show cause why a penalty not exceeding Rs.——————(Rupees——————) (in figures) (in words) shall not be levied on you under sub-section (2) of Section 6 of the said Act.

In the event of your failure to comply with this notice the penalty as indicated above shall be imposed without further reference to you.

Date——————

——————
(Prescribed authority)
Designation——————

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM IV

Notice of demand of penalty under sub-section (2) of Section 6 of the West Bengal Luxury Tax Rules, 1994

[See rule 8 (2)]

To

——————(stockist)
of——————(address)

In continuation of the notice in form III under sub-section (2) of Section 6 of the West Bengal Luxury Act, 1994, issued to you on——————(date)/ *with reference to your petition of *revision/review, dated——————the——— day of———, 19———before the *Commercial Tax Officer/Assistant Commissioner/Additional Commissioner of Commercial Taxes/the prescribed authori-y, you are hereby informed that the amount payable by you by way of penalty has been determined at Rs.——————(Rupees——————) (in figures) (in words)

You are hereby directed to pay the sum of Rs.——————(Rupees——————) (in figures) (in words) due from you as given below into the Calcutta Collectorate Treasury/Reserve Bank of India at Calcutta/Government Treasury at——————on or before——————(date) and to produce the receipt in proof of the payment before the undersigned not later than the——————day of—————— failing which the said sum shall be recoverable from you as an arrear of land revenue.

Penalty payable Rs.——————
Less paid Rs.——————
Penalty due Rs.——————
Penalty paid in excess Rs.——————

Signature——————
Designation——————

Dated——————

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM V

Return of Luxury Tax payable under the West Bengal Luxury Tax Act, 1994

PART XI

MADHYA PRADESH ACTS, ORDINANCES & NOTIFICATIONS

1995

THE MADAYA PRADESH NIRASHRITON AVAM NIRDHAN VYAKTIYON KI SAHAYATA (SANSHODHAN) ADHINIYAM, 1994

The following Act received the assent of the Governor on the 7th October, 1994, and was published in the "Madhya Pradesh Gazette (Extraordinary)", dated 11th October, 1994,

MADHYA PRADESH ACT NO. 29 OF 1994

An Act further to amend the Madhya Pradesh Nirashriton Avam Nirdhan Vyaktiyon Ki Sahayata Adhiniyam, 1970.

Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the **Madhya Pradesh Nirashriton Avam Nirdhan Vyaktiyon Ki Sahayata (Sanshodhan) Adhiniyam, 1994.**

2. **Amendment of Section 4.**—In Section 4 of the Madhya Pradesh Nirashriton Avam Nirdhan Vyaktiyon Ki Sahayata Adhiniyam, 1970 (No. 18 of 1970) (hereinafter referred to as the principal Act),—

(i) in sub-section (1), clause (i) shall be omitted ;

(ii) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) the Collector may, by order apportion 25 percent of the collections made by a market committee under clause (ii) of sub-section (1) between the several local authorities within the jurisdiction whereof the market area concerned falls.".

3. **Amendment of Section 9.**—Clause (b) of sub-section (2) of Section 9 of the principal Act shall be omitted.

THE MADHYA PRADESH APPROPRIATION (NO. 4) ACT, 1994

The following Act received the assent of the Governor on the 27th September, 1994 and was published in the "Madhya Pradesh Gazette (Extraordinary)", dated 29th September, 1994.

MADHYA PRADESH ACT NO. 28 OF 1994

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Madhya Pradesh for the Services of the Financial Year 1994-95.

Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follows :—

1. Short title.—This Act may be called the Madhya Pradesh Appropriation (No. 4) Act, 1994.

(Text omitted.)

THE MADHYA PRADESH CO-OPERATIVE SOCIETIES (SECOND AMENDMENT) ACT, 1994

The following Act received the assent of the Governor on the 29th October, 1994 and was published in the "Madhya Pradesh Gazette, Extraordinary", dated the 2nd December, 1994.

MADHYA PRADESH ACT NO. 30 OF 1994

An Act further to amend the Madhya Pradesh Co-operative Societies Act, 1960.

Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follows :—

1. Short title and commencement.—(1) This Act may be called the Madhya Pradesh Co-operative Societies (Second Amendment) Act, 1994.

(2) It shall come into force on such date as the State Government may, by Notification, appoint.

2. Amendment of Section 19-C.—For sub-section (1) of Section 19-C of the Madhya Pradesh Co-operative Societies Act, 1960 (No. 17 of 1961), the following sub-section shall be substituted, namely :—

"(1) The Committee may, by a resolution passed by three-fourth majority of the members present and voting at a meeting held for the purpose, expel a member if he—

(a) intentionally does any act likely to injure the credit of the society or bring it to disrepute ; or

(b) wilfully deceives the society by false statements ; or

(c) carries on any business which comes or is likely to come into conflict with the business carried on by the society ; or

(d) persistently makes default in payment of his dues or fails to comply with any provisions of the byelaws :

Provided that no such resolution shall be valid unless the member concerned has been given seven days notice, either personally or by registered post, of the proposal to expel him and has been given an opportunity to represent his case to the committee.

(1-A) Any person aggrieved by the Resolution of the Committee under sub-section (1) may appeal before the Registrar within 30 days of the comm unication of such resolution.".

THE WAKF (MADHYA PRADESH AMENDMENT) ORDINANCE, 1994

Published in the "Madhya Pradesh Gazette (Extraordinary)" dated 27th October, 1994.

MADHYA PRADESH ORDINANCE NO 5 OF 1994

Promulgated by the Governor in the Forty-fifth of the Republic of India.

An Ordinance to amend the Wakf Act, 1954 in its application to the State of Madhya Pradesh.

Whereas the State Legislature is not in session and the Governor of Madhya Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action ;

And whereas the previous instructions of the President have been obtained as required by the proviso to clause (1) of Article 213 of the Constitution of India ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Madhya Pradesh is pleased to promulgate the following Ordinance :—

1. **Short title.**—This Ordinance may be called the Wakf (Madhya Pradesh Amendment) Ordinance, 1994.

2. **Central Act No. 29 of 1954 to be temporarily amended.**—During the period of operation of this Ordinance, the Wakf Act, 1954 (No. 29 of 1954) (hereinafter referred to as the principal Act), shall, in its application to the State of Madhya Pradesh, have effect subject to the amendments specified in Sections 3 to 7.

3. **Amendment of Section 3.**—For Clause (kb) of Section 3 of the Principal Act, the following clause shall be substituted, namely :—

"(kb) "Tribunal" in relation to any area, means the Tribunal, constituted under sub-section (1) of Section 83, having jurisdiction in relation to that area ;".

4. **Amendment of Section 6.**—For sub-section (5) of Section 6 of the Principal Act, the following sub-section shall be substituted, namely :—

"(5) On and from the commencement of the Wakf (Madhya Pradesh Amendment) Ordinance, 1994, no suit or other legal proceed ng shall be instituted or commenced in civil court in relation to any question referred to in sub-section (1).".

5. **Substitution of New Section for Section 6-A.**—For Section 6-A of the Principal Act, the following Section shall be substituted, namely :—

"6A. **Power of Tribunal to determine dispute regarding Wakfs.**—(1) If after the commencement of the WAKF (Madhya Pradesh Amendment) Ordinance, 1994 any question arises whether a particular property specified as Wakf property in a list of Wakfs published under sub-section (2) of Section 5 is Wakf property or not, or whether a wakf specified in such list is a Shia Wakf or a Sunni Wakf, the Board or the mutawalli of the Wakf, or any person interested therein may apply to the Tribunal having jurisdiction in relation to such property for the decision of the question and the decision of the Tribunal in respect of such matter shall be final ;

Provided that—

(a) In the case of the list of waks relating to any area of the State and published or purporting to have been published after the commence nent of the Wakf (Madhya Pradesh Amendment) Ordinance, 1994, no such application shall be entertained after the expiry of one yeur from the date of publication of the list of wakfs under sub-section (2) of Section 5 ; and

(b) In the case of the list of wakfs relating to any part of the State and published or purporting to have been published at any time within a period of one year immediately preceding the commencement of the Wakf (Madhya Pradesh Amendment) Ordinance, 1994, such an application may be entertained by the Tribunal within the period of one year from such commencement ;

Provided further that where any such question has been heard and finally decided by a civil court in a suit instituted before such commencement, the Tribunal shall not reopen such question.

(2) The Wakf Commissioner shall not be made a party to any application under sub section (1).

(3) The list of wakfs published under sub-section (2) of Section 5 and where any such list is modified in pursuance of a decision of the Tribunal under sub-section (1) the list as so modified, shall be final.".

6. **Substitution of New Section for Section 55.**—For Section 55 of the Principal Act, the following Section shall be substituted, namely :—

"55 Appointment Powers and Jurisdiction of Tribunals.—(1) The State Government shall by notification in the Official Gazette, constitute as many Tribunals, as it may think fit for the determination of any dispute, question or other matter relating to a Wakf or Wakfs property which such Tribunal is, or may be, required to determine under this ordinance or any rule or order made thereunder, and may, by the same or subsequent notification in the Official Gazette, define the local limits of the area in relation to which each Tribunal appointed by it shall exercise jurisdiction under this Ordinance.

(2) Any mutawalli of a Wakf, person interested in a Wakf or any other person aggrieved by any order made under this Ordinance or any rule made thereunder, may make an application within the time specified in this Ordinance or where no such time has been specified, within such time as may be prescribed to the Tribunal for the determination of any dispute, question or other matter relating to the Wakf.

(3) Where any application made under sub-section (1) relates to any Wakf property which falls within the territorial limits of the jurisdiction of two or more Tribunals, such application may be made to the Tribunal within the local limits of whose jurisdiction the mutawalli or any one of the mutawallis of the Wakf actually and voluntarily resides, carries on business or personally works for gain, and, where any such application is made to the Tribunal aforesaid, the other Tribunal or Tribunals having jurisdiction shall not entertain any application for the determination of such dispute, question or other matter ;

Provided that the State Government may if it is of opinion that it is expedient in the interests of the wakf or any other person interested in the wakf or the wakf property, to transfer such application to any other Tribunal having jurisdiction for the determination of the dispute, question or other matter relating to such wakf or wakf property, transfer such application to any other Tribunal having jurisdiction. and on such transfer, the Tribunal to which the application is so transferred shall deal with the application from the stage which was reached before the Tribunal from which the application has been so transferred, except where the Tribunal is of opinion that it is necessary in the interests of justice to deal with the application afresh.

(4) Every Tribunal shall consist of one person who shall be a member of the State Judicial Service holding a rank, not below that of a District and Sessions Judge or of a Civil Judge, Class I, and the appointment of every such person may be made either by name or by designation.

(5) The Tribunal shall be deemed to be a Civil Court and shall have

the same powers as may be exercised by a Civil Court under the Code of Civil Procedure, 1908 while trying a suit, or executing a decree or order.

(6) Notwithstanding anything contained in the Code of Civil Procedure 1908, (No. 5 of 1908) the Tribunal shall follow such procedure as may be prescribed :

Provided that where any procedure, different from the prescribed procedure, is specified by this ordinance the Tribunal shall follow the procedure specified by this ordinance.

(7) The decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a Civil Court.

(8) Execution of any decision of the Tribunal shall be made by the civil court to which such decision is sent for execution in accordance with the provisions of the Code of Civil Procedure, 1908 (No. 5 of 1908).

(9) No appeal shall lie against any decision in order whether interim or otherwise, given or made by the Tribunal :

Provided that a High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reserve or modify such determination or pass such other order as it may think fit.

7. **Insertion of new Sections 55A to 55G.**—After Section 55 of the Principal Act, the following Sections shall be inserted, namely :—

55-A. **Tribunal to hold proceedings expeditionally and to furnish to the parties copies of its decision.**—Whenever an application is made to a Tribunal for the determination of any dispute, question or other matter relating to a Wakf or Wakf property it shall hold its proceedings a expeditiously as possible and shall as soon as practicable, on the conclusion of the hearing of such matter give its decision in writing under its signature and furnish a copy of such decision to each of the parties who were present before it at the time of the decision and, where any party was not present at the time aforesaid, send a copy of such decision to such party by registered post.

55-A. **Amendment of decisions** – Clerical or arithmetical mistakes in any decision or order of a Tribunal or any error arising therein from any accidental slip or omission may at any time be corrected by the Tribunal by which such decision was given or order was made, either on its own motion or on the application of any of the parties to the proceeding, and whenever any such correction is made, a copy of the decision or order, as so corrected, shall be furnished to each of the parties, who were present before the Tribunal at the time of making such correction, and, where any party was not so present, shall be sent to such party by registered post.

55-C. **Bar of Jurisdiction of civil courts in respect of matters determined by Tribunal.**—No suit or other legal proceeding shall lie in any civil court in respect of any dispute, question or other matter relating to any wakf or wakf property or other matter which is required by, or under, this ordinance, to be determined by a Tribunal.

55-D **Appointment of a receiver in certain cases.**—Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or any other law for the time being in force, where any suit or other legal proceed-

ing is instituted or commenced—

(a) by or on behalf of a Board—

(i) to set aside the sale of any immovable property, which is wakf property, in execution of a decree or order of a civil court ;

(ii) to set aside the transfer of any immovable property which is wakf property, made by the mutawalli thereof, whether for valauble consideration or not without or otherwise than in accordance with, the sanction of the Board ;

(iii) to recover possession of the property referred to in Clause (a) or Clause (b) or to restore possession of such property to the mutawalli of the concerned wakf ; or

(b) by mutawalli to recover possession of immovable property, which wakf property, which has been transferred by a previous mutawalli whether for valuable consideration or not, without or otherwise than in accordance with, the sanction of the Board, and which is in the possession of the defendant.

The Court may, on the application of the plaintiff, appoint a receiver of such property and direct such receiver to pay from time to time to the plaintiff, out of the income of the property such amount as the court may consider to be necessary for further prosecution of the suit.

55-E Bar to the enforcement of right on behalf of unregistered Wakfs.—(1) Notwithstanding anything contained in any other law for the time being in force no suit, appeal or other legal proceeding for the enforcement of any right on behalf of any Wakf which has not been registered in accordance with the provisions of this ordinance, shall be instituted or commenced or heard, tried or decided by any any court after the commencement of the Wakf (Madhya Pradesh Amendment) Ordinance, 1994, or where any such suit, appeal or other legal proceeding had been instituted commenced before such commencement, no such suit, appeal or other legal proceeding shall be continued, heard tried or decided by any court after such commencement unless such wakf has been registered, after such commencement, in accordance with the provisions of this ordinance.

(2) The provision of sub-section (1) shall apply, as far as may be, to the claim for set-off or any other claim made on behalf of any Wakf which has not been registered in accordance with the provision of this ordinance.

55-F. Bar to the challenge of the validity of any notification, etc.—Save as otherwise expressly provided in this ordinance, no notification or order or decision made, proceeding or action taken, by the State Government under this ordinance, or any rule made thereunder shall be questioned in any civil court.

55-G. Transfer of pending cases.—(1) Every suit or other proceeding pending before any court or other authorities immediately before the date of constitution of the Tribunal under this ordinance, being a suit or proceeding the cause of action, whereon it is based, is such that it would have been, if it had arisen after such constitution within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal :

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before the High Court.

(2) Where any suit or other proceeding stands transferred from any court to other authority to the Tribunal under sub-section (1)—

(a) The court or authority shall as soon as may be after such transfer forward the records of such suit or other proceeding to the Tribunal ; and

(b) The Tribunal may, on receipt of such records proceed to deal with such suit or other proceeding in such manner as the Tribunal may deem it.".

MOHAMMED SHAFI QURESHI
Governor
Madhya Pradesh

Bhopal
Dated 26th October, 1994.

Published in the Madhya Pradesh Gazette, Extraordinary, dated 31st October, 1994.

No. F. 5-21-90 XXXII.—(*Bhopal, the 29th October, 1994*).—In exercise of the powers conferred by Section 64 of the Water (Prevention and Control of Pollution) Act. 1974 (No. 6 of 1974), the State Government, after consultation with the Madhya Pradesh Pallution Control Board hereby makes the following further amendments in the Water (Prevention and Control of Pollution) (Consent) Madhya Pradesh Rules, 1975, namely :—

AMENDMENTS

In the said rules, –

1. For sub-rule (v) of Rule 4, the following sub-rule shall be substituted, namely :—

"(V) The application form shall be duly accompanied by the consent fees as specified in the following Schedule :—

SCHEDULE

Industries having an investment of—

		Rs.
(1)	More than 500 Crores	1,00,000.00
(2)	More than 100 Crores but less than 200 Crores	75,000.00
(3)	More than 60 Crores but less than 100 Crores	60,000.00
(4)	More than 10 Crores but less than 50 Crores	50,000.00
(5)	More than 3 Crores but less than 10 Crores	30,000.00
(6)	More than 50 Lakhs but less than 3 Crores	7,500.00
(7)	More than 10 Lakhs but less than 50 Lakhs	2,000.00
(8)	More than 3 Lakhs but less than 10 Lakhs	1,000.00
(9)	Less than 3 Lakhs	500.00

"The above consent fee includes the licence fee for the first year."

2. For clause 'A' of sub-rule (5) of Rule 5, the following clause shall be substituted, namely :—

"A. Industries having an investment of—

		Rs.
(1)	More than 200 Crores	30,000 00
(2)	More than 100 Crores but less than 200 Crores	25,000.00
(3)	More than 50 Crores but less than 100 Crores	20.000.00
(4)	More than 10 Crores but less than 50 Crores	15 000.00
(5)	More than 3 Crores but less than 10 Crores	10,000.00
(6)	More than 50 Lakhs but less than 3 Crores	2,500.00
(7)	More than 10 Lakhs but less than 50 Lakhs	750.00
(8)	More than 3 Lakhs but less than 10 Lakhs	300.00
(9)	Less than 3 Lakhs	100.00

The above rates of fees for Consent/Renewal of consent will be applicable from the date of publication of this notification in the official gazette :

Provided that consent applications, which are received prior to the publication of this notification, will not be liable for the excess payment of difference of fees owing to their pendency ; and

Provided further the renewal applications received for this year prior to the publication of this notification, shall pay fees according to the existing schedule."

Published in the Madhya Pradesh Gazette, Extraordinary, dated October 10, 1994.

PANCHAYAT & GRAMIN VIKAS DEPARTMENT

No. 1626-2444-XXII-P-2-94.—*(Bhopal, the 13th October, 1994).*—In exercise of the powers conferred by sub-section (1) of Section 95 read with Section 43 of the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994), the State Government, in consultation with the State Election Commission, hereby makes the following **amendments in the Madhya Pradesh Panchayat Election Rules, 1994**, the same having been previously published as required by sub-section (3) of Section 95 of the said Act, namely :—

AMENDMENT

In the said rules, for rule 12, the following rule shall be substituted, namely :—

"**Duration of voter's list and its revision.**—(1) The Voter's list referred to in sub-rule (4) of Rule 10 shall remain in force until revised in accordance with sub-rule (2) or sub-rule (3).

(2) Every such list shall be liable to revision by reference to the first day of January of the year in which it is so revised—

(i) before each general election to the Panchayats, or as the case may be ;

(ii) before each bye-election to fill a seat in a Panchayat.

(3) Notwithstanding anything contained in sub-rule (2), it shall not be necessary to revise such list before a bye-election, if such bye-election is held during the calendar year in relation to the first day of January whereof the list has been originally prepared :

Provided that the Commission may for reasons considered sufficient by it, direct revision of such list before holding a bye-election.

(4) Notwithstanding anything contained in the foregoing provisions, the validity or continued operation of the Voter's List referred to in sub-rule (4) of rule 10 shall not in any way be affected by non-revision of any such list under sub-rule (2) or when so directed by the Commission, under proviso to sub-rule (3)."

Published in the Madhya Pradesh Gazette, Extraordinary, dated October 6, 1994.

No. A-3-24-94-ST-V (109).—*(Bhopal, the 6th October, 1994).*—Whereas the State Government considers that the following rules should be made and brought into force at once.

Now, therefore, in exercise of the powers conferred by,—

(1) Sub-section (1) and clause (i) of sub-section (2) of Section 51 read with Section 22-D of the Madhya Pradesh General Sales Tax Act, 1958

PART XII

ORISSA ACTS, ORDINANCES AND NOTIFICATIONS

1995

Published in the Orissa Gazette, Extraordinary, dated 1st January, 1994.

THE ORISSA APPROPRIATION (NO. 4) ACT, 1993
ORISSA ACT NO. 1 OF 1994

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Orissa for the services of the financial year 1993-94.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :—

1. **Short title.**—This Act may be called the **Orissa Appropriation (No. 4) Act, 1994.**

(Text omitted)

Published in the Orissa Gazette, Extraordinary, dated 27th January, 1994.

THE ORISSA EDUCATION (SECOND AMENDMENT) ACT, 1993
ORISSA ACT 2 OF 1994

An Act further to amend the Orissa Education Act, 1969.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :—

1. **Short title.**—This Act may be called the **Orissa Education (Second Amendment) Act, 1994.**

2. **Amendment of section 3.**—In the Orissa Education Act, 15 of 1969 (hereinafter referred to as the principal Act), after clause (e) of section 3, the following clause shall be inserted, namely :—

"(e-1) "education circle" means an area as the State Government may by Notification, declare as such for the purposes of this Act ;".

3. **Amendment of section 10.**—In the principal Act, in sub-section (1) of section 10, for the word "district", the words "education circle" shall be substituted.

4 **Amendment of section 10-C.**—In the principal Act, to sub-section (1) of section 10-C, the following proviso shall be added, namely ; —

"Provided that the State Government may constitute a common cadre in relation to all or any class of employees of all or any categories of aided High Schools or Upper Primary Schools for the whole State or for any

education circle as may be specified in the order.".

Published in the Orissa Gazette, Extraordinary, dated 1st April, 1994.

THE ORISSA APPROPRIATION ACT, 1994

ORISSA ACT 4 OF 1994

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Orissa for the services of the financial year 1994-95.

Be it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India, as follhws :—

1. Short title.—This Act may be called the Appropriation Act, 1994.

(Text omitted)

Published in the Orissa Gazette, Extraordinary, dated 5th April, 1994.

THE ORISSA SURVEY AND SETTLEMENT (AMENDMENT) ACT, 1994

ORISSA ACT 5 OF 1994

An Act to amend the Orissa Survey and Settlement Act, 1958.

Be it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India, as follows :—

1. Short title.—This Act may be called the Orissa Survey and Settlement (Amendment) Act, 1994.

2. Amendment of section 33.—In section 33 of the Orissa Survey and Settlement Act, 1958 (Orissa Act 3 of 1958), for the words "an Officer not below the rank of a Revenue Divisional Commissioner", the words "any officer above the rank of a Settlement Officer" shall be substituted.

Published in the Orissa Gazette, Extraordinary, dated 18th April, 1994.

THE ORISSA GRAMA PANCHAYATS (AMENDMENT) ACT, 1994

ORISSA ACT 6 OF 1994

An Act further to amend the Orissa Grama Panchayats Act, 1964.

Be it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India, as follows :—

1 Short title and commencement.—(1) This Act may be called the Orissa Grama Panchayats (Amendment) Act, 1994.

(2) It shall come into force on such date, not being later than the 23rd April, 1994, as the State Government may, by Notification, appoint.

2. Amendment of section 1.—In section 1 of the Orissa Grama Panchayats Act, 1964 (Orissa Act 1 of 1965) (hereinafter referred to as the principal Act),—

(a) in the marginal heading, for the words "and commencement", the comma and words ", commencement and application" shall be substituted ;

(b) in the proviso to sub-section (2), the words "or a Notified Area" shall be omitted ;

(c) after sub-section (3), the following sub-section shall be inserted, namely :—

"(4) Nothing in this Act shall apply to the Scheduled Area referred to in clause (1) of Article 244 of the Constitution".

3. Amendment of section 2.—In section 2 of the principal Act,—

(i) after clause (f), the following clauses shall be inserted, namely ;—

'(f-1) "Election Commission" means the Election Commission consisting of a Election Commissioner appointed by the Governor under Article 243-K of the Constitution ;

(f-2) "Finance Commission" means the Finance Commission constituted by the Governor under Article 243-I of the Constitution ;'.

4. **Amendment of section 8.**— In section 8 of the principal Act, for the proviso to sub-section (1), the following proviso shall be substituted, namely :—

"Provided that—

(i) the determination of the number of such wards shall be subject to the Provisions in Article 243-O of the Constitution ; and

(ii) the total number of wards in any Grama shall not be less than eleven and more than twenty-five.".

5. **Amendment of section 9.**—In section 9 of the principal Act, for the words "So much", the words "Subject to the superintendence, direction and control of the Election Commission, so much" shall be substituted.

6. **Amendment of section 10.**—In section 10 of the principal Act,—

(i) in sub-section (1), clause (c) shall be omitted ; and

(ii) for sub-sections (3) and (4), the following sub-sections shall be substituted, namely :—

"(3) (a) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Grama Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in the Grama Panchayat as the population of the Scheduled Castes in the concerned Grama Panchayat or of the Scheduled Tribes in that Grama bears to the total population of that Grama and such seats shall be allotted by rotation to different wards in a Grama Panchayat ;

Provided that where the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in a Grama is not sufficient for the reservation of any seat, one seat for the Scheduled Castes or, as the case may be, one seat for the Scheduled Tribes shall be reserved in that Grama ;

(b) As nearly as may be, but not less than one-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, Scheduled Tribes :

Provided that where only two seats are reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(c) As nearly as may be, but not less than, one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Grama Panchayat shall be reserved for women and such seats shall be allotted by rotation to different wards in a Grama.

(4) The manner of election of members specified in sub section (1) and the procedure regarding reservation of seats for such purposes of sub-section (3) shall be such as may be prescribed.

(5) Notwithstanding anything to the contrary in this section,—

(a) the offices of Sarpanches in Gram Panchayats shall be reserved for the Scheduled Castes and the Scheduled Tribes and the number of offices so

reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of such offices as the population of the Scheduled Castes and the Scheduled Tribes respectively in the State bears to the population of the State ; and

(b) as nearly as may be, but not less than one-third of the total number of offices of Sarpanches in Gram Panchayats shall be reserved for women.

(6) Reservation of offices of Sarpanches under sub-section (5) shall be made by the State Government by rotation among different Grama Panchayats and the reservation so made shall be notified by the Election Commission

(7) The reservation of seats under clauses (a) and (b) of sub section (3) and the reservation of offices of Sarpanches (other than reservation for women) under sub-section (5) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.".

7. **Amendment of Section 11.**—In Section 11 of the principal Act, for clauses (c) and (d), the following clause shall be substituted, namely : —

(c) as a member—

(i) for more than one ward in the Grama or for more than one Grama Panchayat ; or

(ii) if he is unable to read and write Oriya ; and

(iii) if he has not attained the age of twenty-one years.".

8. **Amendment of Section 12.**—In Section 12 of the principal Act, —

(i) in sub-section (1), for the word "held", the word "completed" shall be substituted ;

(ii) in sub-section (3), for the words "on the expiry of its term of office by efflux of time", the words, brackets and figures "before the expiry of its term specified in sub-section (2) of Section 17" shall be substituted ; and

(iii) sub-sections (3) and (4) shall be omitted.

9. **Amendment of Section 14.**—In Section 14 of the principal Act, in sub-section (1), —

(i) the first proviso shall be omitted ; and

(ii) in the second proviso, the word "further" occurring after the word "Provided" shall be omitted.

10. **Amendment of Section 17.**—In Section 17 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely ;—

"(2) Every Grama Panchayat, unless sooner dissolved or superseded, shall continue for five years from the date appointed for its first meeting referred to in sub-section (1) of Section 14 and no longer :

Provided that a Grama Panchayat constituted on the dissolution or supersession of a Grama Panchayat before the expiration of its term shall continue only for the remainder of the period for which the dissolved or, as the case may be, superseded Grama Panchayat would have constituted under this sub-section had it not been so dissolved or, as the case may be, superseded ".

11. **Amendment of Section 18.**—In Section 18 of the principal Act, in sub-section (2), for the words "as may be prescribed", the words "as the State Government may, by Notification, determine" shall be substituted.

12. **Amendment of Section 25.**—In Section 25 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (t), for the words and fullstop "Grama Panchayat", the words and semicolon "Grama Panchayat ; or" shall be substituted ;

(ii) after clause (t), the following clause shall be inserted, namely :—

"(u) has more than one spouse living ; or

(v) has more than two children ;

Provided that the disqualification under clause (v) shall not apply to any person who has more than two children on the date of commencement of the Orissa Grama Panchayats (Amendment) Act, 1994 or, as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year" ; and

(b) in clause (a) of sub-section (2), for the words, brackets and letters "and clauses (m) to (p)", the comma, words, brackets and letter, "clauses (m) to (p) and clauses (r) to (v)" shall be substituted.

13. **Amendment of Section 27.**—In Section 27 of the principal Act, for sub-section (3) the following sub section shall be substituted, namely :—

"(3) Notwithstanding anything contained in this section, the superintendence, direction and control of the conduct of elections to Gram Panchayats shall be vested in the Election Commission".

14. **Amendment of Section 44.**—In Section 44 of the principal Act, for clause (u) the following clause shall be substituted, namely :—

"(u) the implementation of schemes for economic development and social justice in relation to agriculture, including agricultural extension;".

15. **Amendment of Section 58.**—In Section 58 of the principal Act, for sub-sections (5), (6) and (7), the following sub-section shall be substituted, namely :—

"(5) (a) On and after the date of commencement of the Orissa Grama Panchayats (Amendment) Act 1994 (hereinafter referred to in this sub-section as the 'appointeddate'), nothing in the Orissa Agricultural Produce Markets Act, 1956 (Orissa Act 3 of 1957) shall apply—

(i) to or in relation to any market set up or established within the area of a Gramma prior to the appointed date ; or

(ii) for setting up or establishment of any market within the said area after the appointed date.

(b) Where any land or building or both belonging to any Grama Panchayat has or have been transferred to a market Committee under Section 4 of the Orissa Agricultural Produce Markets Act, 1956 (Orissa Act 3 of 1957) prior to the appointed date, such land or building or both, as the case may be, shall, if the same continue to be within the area of a Grama, stand transferred to the Grama Panchayat having jurisdiction over the Grama Panchayat having jurisdiction over the Grama on the appointed date.

(c) Any market set up or established under the Orissa Agricultural Produce Markets Act, 1956 (Orissa Act 3 of 1957) which is situated within the area of a Grama and continues as such on the appointed date shall be deemed to be a market allowing to be set up or established under this Act, but shall cease to continue as such after the expiration of a period of three months from the appointed date unless its continuance is allowed further in accordance with the provisions of this Act and the Rules made thereunder.".

16. **Amendment of Section 100-A.**—For Section 100-A of the principal

Act, the following section shall be substituted, namely :—

"100-A. (1) It shall be the duty of the Finance Commission to review the financial position of Grama Panchayats, make such recommendations to the Governor as required under Article 243-I of the Constitution.

(2) The Finance Commission may, for the purpose of maintaining sound financial position of Grama Panchayats, make such recommendations including measures needed for improvement of the financial position thereof, as it may deem fit.

(3) The Governor shall cause every such recommendation made by the Finance Commission together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly.".

17. **Amendment of Section 120.**—In Section 120 of the principal Act, the words "by them" shall be omitted.

18. **Amendment of Section 124.**—In Section 124 of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely :—

"(5) The Collector or such other officer or person authorised in that behalf by the State Government shall have the right to take part in the proceedings at any meeting of the Grama Panchayat or a Committee thereof, but shall not be entitled to vote at any such meaning".

Published in the Orissa Gazette, Extraordinary, dated 18th April, 1994.

THE ORISSA PANCHAYAT SAMITI (AMENDMENT) ACT, 1994
ORISSA ACT NO. 7 OF 1994

An Act further to amend the Orissa Panchayat Samiti Act, 1959.

Be it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India, as follows :—

1. **Short title and commencement.**—(1) This Act may be called the **Orissa Panchayat Samiti (Amendment) Act, 1994.**

(2) It shall come into force on such date, not being later than the 23rd April 1994, as the State Government may, by Notification, appoint.

2. **Amendment of Section 1.**—In the Orissa Panchayat Samiti Act, 1959 [Orissa Act 7 of 1960] (hereinafter referred to as the principal Act), in Section 1,—

(a) in the marginal heading, for the words "and commencement", the comma and words, "commencement and application" shall be substituted ; and

(b) after sub-section (4), the following sub-section shall be inserted, namely :—

"(5) Nothing in this Act shall apply to the Scheduled Areas referred to in clause (1) of Article 244 of the Constitution".

3. **Amendment of Section 3.**- In the principal Act, in Section 3, after clause (b), the following clauses shall be inserted, namely :—

'(b-1) "Election Commission" means the State Election Commission consisting of a State Election Commissioner appointed by the Governor under Article 243-K of the Constitution ;

(b-2) "Finance Commission" means the Finance Commission constituted by the Governor under Article 243-I of the Constitution ;".

4 **Amendment of Section 16.**- In the principal Act, in Section 16.—

(1) for sub-section (1), the following sub-section shall be substituted,

namely :—

"(1) Every Block shall have a Samiti consisting of the following members, namely :—

(a) the Chairman and the Vice-Chairman of the Samiti elected in the manner provided in sub-section (3) ;

(b) one member elected directly on the basis of adult suffrage from every constituency within the Block in the prescribed manner ;

(c) Sarpanches of the Grama Panchayats situated within the Block ;

(d) every member of the House of the People and of the Legislative Assembly representing constituencies which comprise wholly or partly the area of the Samiti ; and

(e) every member of the Council of States who is registered as an elector within the area of the Samiti :

Provided that a Sarpanch suspended from office under the provisions of the Orissa Grama Panchayats Act, 1964 (Orissa Act 1 of 1965) shall cease to be a member of the Samiti during the period of his suspension and the Naib-Sarpanch or, in his absence, the person elected or nominated under Section 21 of the said Act to exercise the powers and perform the functions of the Sarpanch shall be deemed to be a member of the Samiti in place of the Sarpanch so suspended

Explanation.—For the purposes of clause (b), "constituency" shall mean a constituency as may be determined by Rules made under this Act subject to the provision in Article 243-C of the Constitution ;

(ii) in clause (a) of sub-section (2), for the word, brackets and letter "clause (h)", the word, brackets and letter "clause (b)" shall be substituted and after the words "total population of that area", the words "and such seats shall be allotted by rotation to different constituencies in the Samiti area" shall be inserted ;

(iii) in sub-section (3), for the word, brackets and letter "clause (h)", the word, brackets and letter "clause (b)" shall be substituted ;

(iv) after sub-section (3), the following sub-sections shall be inserted, namely :—

"(3-a) Notwithstanding anything to the contrary in sub-section (1),—

(i) Offices of Chairmen in Samitis shall be reserved for the Scheduled Castes and Scheduled Tribes and the number of offices so reserved for the Scheduled Castes and Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of such offices as the population of the Scheduled Castes and the Scheduled Tribes respectively in the State bears to the total population of the State ;

(ii) as nearly as may be, but not less than, one-third of the total number of offices of Chairman in Samitis shall be reserved for women ;

(iii) reservation of offices of Chairment under this sub-section shall be made by the Government by rotation among different Samitis in the prescribed manner and the reservation so made shall be published by the Election Commission in the Gazette.

(3-b) The reservation of seats under clauses (a) and (b) of sub-section (2) and the reservation of offices of Chairmen (other than reservation for women) under sub-section (3-a) shall cease to have effect on the period specified in Article 334 of the Constitution" ; and

(v) in sub-section (6), for the word, brackets and letter "clause (h)",

the word, brackets and letter "clause (b)" shall be substituted.

5. **Amendment of Section 16-A.**— In the principal Act, in Section 16-A, the words "or, as the case may be, the member of the Grama Panchayat" shall be added at the end.

6. **Amendment of Section 16-B.**—In the principal Act, for Section 16-B including its marginal heading, the following section shall be substituted, namely :—

"16-B. **Superintendance, direction and control of elections to vest in the Election Commission.**—The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to Samitis shall be vested in the Election Commission".

7. **Amendment of Section 18.**—In the principal Act, in Section 18,—

(i) sub-section (2) including its proviso shall be omitted ; and

(ii) for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) All the members of the Samiti Specified in sub-section (1) of Section 16 shall have the right to vote at the meetings of the Samiti.".

8. **Amendment of Section 20.**—In the principal Act, in sub-section (3) of Section 20, the words "or Notified Area", or Notified Area Council" and "or Council" shall be omitted.

9. **Amendment of Section 25-A.**—In the principal Act, in Section 25-A, for the words "Notified Area Council or Municipal Council" and "any such Council", the words "Municipality" and "the Municipality" shall respectively be substituted.

10. **Amendment of Section 31-A.**—In the principal Act, for Section 31-A, the following section shall be substituted, namely :—

"31-A. (1) It shall be duty of the Finance Commission to review the financial position of Samitis and to make recommendations to the Governor as required under Article 243-I of the Constitution.

(2) The Finance Commission may, for the purpose of maintaining sound financial position of Samitis, make such recommendations including measures needed for improvement of the financial position thereof, as it may deem fit.

(3) The Governor shall cause every such recommendation made by the Finance Commission together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly.".

11. **Amendment of Section 41.**— In the principal Act, in Section 41,—

(a) in sub-section (1), the words "and immediately reconstituted" and "The notification shall specify the time within which the Samiti shall be reconstituted" ; and the proviso shall be omitted ; and

(b) sub-section (6) shall be omitted.

12. **Amendment of Section 42.**— In Section 42,—

(a) in sub-section (1), the words "and may, in like manner by stating reasons therefor, extend such period from time to time so that the total period of supersession does not exceed six months" shall be added at the end ;

(b) sub-sections (4) and (6) shall be omitted ; and

(c) in sub-section (5), the word, brackets and figure "or (4)" shall be omitted.

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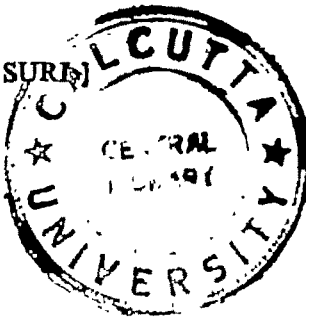

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total shares of that company.

(3) Where an acquirer holds more than 10 per cent. shares at the time of commencement of these regulations and was not required to comply with the provisions of clause 40A and clause 40B of the listing agreement, the public offer referred to in sub-regulation (2) shall be to acquire a minimum of such percentage as would increase his shareholding to at least thirty per cent. of the total shares of that company.

(4) The offer referred to above shall not result in the public shareholding being reduced to less than 20 per cent. of the voting capital of the company.

(5) Where a person seeking to make acquisition of shares by reason of holding securities, which may carry voting rights at a later point of time, the percentage referred to in sub-regulations (2) and (3), shall be computed with reference to voting capital of the company including the securities which would carry voting rights.

(6) Where number of shares offered for sale by the shareholders are more than the shares agreed to be acquired by the person making the offer, such person shall subject to sub-regulation (1) accept the offers received from the shareholders on a proportional basis.

22. **Completion of the offer.**—The acquirer shall within a period of four weeks from the date of the closure of the offer complete all procedures relating to the offer including payment of consideration to the shareholders who have accepted the offer.

23. **Competitive acquisition** – (1) Any person other than the acquirer making a public announcement may, within two weeks of such announcement, make a competitive bid for acquisition.

(2) The provisions of this Chapter shall mutatis mutandis apply to the competitive bid made under sub-regulation (1):

Provided that the period of offer in the public announcement shall not in any case extend beyond that of the first offer mentioned in sub-regulation (3) of regulation 20.

24. **Revised offer** —No change in the conditions of offer or any amendment to a public offer shall be made unless the person acquiring shares—

(a) obtains the prior approval of the Board,

(b) makes a public announcement in respect of such amendments in the same manner as specified in regulation 12, and

(c) sends a communication to each of the shareholders

25. **Withdrawal of offer.**—(1) No public offer once made shall be withdrawn except on the happening of an event making it impossible for the person acquiring shares for reasons beyond his control to carry out his offer.

(2) No offer once made shall be withdrawn without the previous approval of the Board.

(3) Without prejudice to sub-regulation (1) a public offer shall be deemed to have been withdrawn if any of the following events occurs :—

(i) the death of the acquirer if he is a natural person ;

(ii) the acquirer is adjudged insolvent or is subject to insolvency proceedings ;

(iii) in case of acquirer, being a natural person, he has either become insane or incapable on account of physical disability or otherwise has become incapable of managing his affairs ;

(iv) the acquirer being a company or a body corporate has either received notice or is subject to commencement of winding up proceedings.

(4) In the event of withdrawal of the offer under any of the conditions the acquirer shall make a public announcement in the same newspapers in which the announcement of offer was published, indicating reasons for withdrawal of the offer.

(5) Where an offer is withdrawn under sub-regulation (1), the acquirer shall not make any offer for acquisition of shares in the same company for a period of six months from the date, the offer is withdrawn.

CHAPTER IV

Bail out takeovers

26. Bail out takeovers —(1) The provisions of this Chapter shall apply to a substantial acquisition of shares in financially weak company not being a sick industrial company, in pursuance to a scheme of rehabilitation approved by a public financial institution or a scheduled bank (hereinafter referred to as lead institution).

(2) The lead institution shall be responsible for ensuring compliance with the provisions of this Chapter.

(3) The lead institution shall appraise the financially weak company taking into account the financial liability and assess the requirement of funds for revival and draw up the rehabilitation package on the principle of protection of interests of minority shareholders, good management, effective revival and transparency.

(4) The rehabilitation scheme shall also specifically provide the details of any change in management.

(5) The scheme may provide for acquisition of shares in the financially weak company in any of the following manners :

(a) outright purchase of shares, or

(b) exchange of shares, or

(c) a combination of both :

Provided that the scheme as far as possible may ensure that after the proposed acquisition the erstwhile promoters do not own any shares in case such acquisition is made by the new promoters pursuant to such scheme.

Explanation —For the purpose of this Chapter, the expression "financially weak company" means a company, which has at the end of the previous financial year accumulated losses, which has resulted in erosion of more than 50 per cent. but less than 100 per cent. of its net worth, that is to say, of the sum total of the paid-up capital and free reserves.

27. Manner of acquisition of shares.—(1) Before giving effect to any scheme of rehabilitation the lead institution shall invite offers for acquisition of shares from at least three parties.

(2) After receipt of the offers under sub-regulation (1), the lead institution shall select one of the parties having regard to the managerial competence, adequacy of financial resources and technical capability of the person acquiring shares to rehabilitate the financially weak company.

(3) The lead institution shall provide necessary information to any person intending to make an offer to acquire shares about the financially weak company and particularly in relation to its present management, technology, range of products manufactured, shareholding pattern, financial holding and performance and assets and liabilities of such company for a

period covering five years from the date of the offer as also the minimum financial and other commitments expected of from the person acquiring shares for such rehabilitation.

28. **Manner of evaluation of bids.**—(1) The lead institution shall evaluate the bids received with respect to the purchase price or exchange of shares, track record, financial resources, reputation of the management of the person acquiring shares and ensure fairness and transparency in the process.

(2) After making evaluation as provided in sub-regulation (1), the offers received shall be listed in order of preference and after consultation with the persons in the affairs of the management of the financially weak company accept one of the bids.

29. **Person acquiring shares to make an offer.**— The person acquiring shares who has been identified by the lead institution under regulation 27, shall, on receipt of a communication in this behalf from the lead institution, make a formal offer to acquire the shares from the promoters or persons in charge of the affairs of the management of the financially weak company, financial institutions and also other shareholders at a price determined by mutual negotiation between the person acquiring shares and the lead institution.

Explanation.—Nothing in this regulation shall prohibit the lead institution offering the shareholdings held by it to financially weak company as part of the scheme of rehabilitation.

30 **Person acquiring shares to make public announcement in certain cases.**—(1) Where an offer is made to the shareholders other than the persons in charge of the management of the affairs of the financially weak company, the person acquiring shares shall make a public announcement of his intention for acquisition of shares.

(2) Such public announcement shall contain relevant details about the offer including the information about identity and background of the person acquiring shares, offer price, the plan for revival of the unit and the period for which the offer shall be kept open.

(3) The terms of offer shall be forwarded to each of the shareholders in the financially weak company indicating therein a specific mention of the record date and also the acquisition date of the offer.

(4) Notwithstanding anything contained in the foregoing regulations, the financially week company or, as the case may be, the lead institution shall ensure that at no point of time shareholding held by the public is reduced to less than 20 per cent. of the paid-up share capital of such company.

(5) While accepting the offer from the other shareholders, the person acquiring shares shall offer to acquire from the individual shareholder his entire holdings if such holding is up to hundred shares of the face value of rupees ten each or ten shares of the face value of rupees hundred each.

31. **Exemption from the operations of Chapter III.** (1) Every offer which has been made in pursuance of regulation 30 shall be accompanied with an application to the Board for exempting such acquisitions from the provisions of Chapter III of these regulations.

(2) For considering such request, the Board may call for such information from the company as also from the lead institution, in relation to the

manner of vetting the offers, evaluation of such offers and similar other matters.

32. **Acquisition of shares by a State level public financial institution.**—Where proposals for acquisition of shares in respect of a financially weak company made by a State level public financial institution, the provision of these regulations in so far as they relate to scheme of rehabilitation prepared by a public financial institution, shall apply except that in such case the Industrial Development Bank of India, a corporation established under the Industrial Development Bank of India, Act, 1953, shall be the agency for ensuring the compliance of these regulations for acquisition of shares in the financially weak company.

CHAPTER V
Investigation

33 **Board's right to investigate**—(1) Where it appears to the Board so to do, it may appoint one or more persons as investigating authority to investigate and undertake inspection of the books of account, other records and documents of any person who may have acquired or sold securities to any person for any of the purposes specified in sub-regulation (2).

(2) The purposes referred to in sub-regulation (1) may be as follows :

(a) to investigate into the complaints received from investors, intermediaries or any other person on any matter having a bearing on the allegations of substantial acquisition of shares and takeovers ; and

(b) to investigate suo motu upon its own knowledge or information, in the interest of securities business or investors interests, for any breach of the regulations.

34. **Procedure for investigation.**—(1) Before undertaking any investigation under regulation 33, the Board, shall give a reasonable notice to the person concerned for that purpose.

(2) Notwithstanding anything contained in sub-regulation (1), where the Board is satisfied that in the interest of the investors or in public interest no such notice should be given, it may by an order in writing direct that the investigation be taken up without such notice.

(3) On being empowered by the Board, the investigating authority shall undertake the investigation and the person against whom an investigation is being carried out shall be bound to discharge his obligations as provided under regulation 35.

35. **Obligation of investigation by the Board.**—(1) It shall be the duty of every person who is being investigated (hereinafter referred to as the "person concerned" to produce to the investigating authority such books, accounts and other documents in his custody or control and furnish him with the statements and information relating to the transactions in securities market within such time as the said investigating authority may require.

(2) The person concerned shall allow the investigating authority to have reasonable access to the premises occupied by such person or by any other person on his behalf and also extend reasonable facility for examining books, records, documents and computer data in the possession of the stock-broker or any other person and also provide copies of documents or other materials which, in the opinion of the investigating authority are relevant and useful for the purposes of making investigations under this Chapter.

(3) The investigating authority, in the course of investigation, shall be entitled to examine or record statements of any member, director, partner, proprietor and employee of the person concerned.

(4) It shall be the duty of every director, proprietor, partner, officer and employee of the person concerned to give to the investigating authority all assistance in connection with the investigation, which the person concerned may be reasonably expected to give.

36. **Submission of report to the Board.**—The investigating authority shall, as soon as may be possible submit an investigation report to the Board.

37. **Communication of finding, etc.**—(1) The Board shall after consideration of the investigation report communicate the findings to the person concerned to give him an opportunity of being heard before any action is taken by the Board on the findings of the investigating authority.

(2) On receipt of the explanation, if any, from the person concerned, the Board may call upon the person concerned to take such measures as the Board may deem fit in the interest of the securities market and the due compliance with the provisions of the Act, rules and regulations.

38. **Appointment of auditor.**—Notwithstanding anything contained in the preceding regulation of the this Chapter, the Board may appoint a qualified auditor to investigate into the books of account or the affairs of the person concerned :

Provided that the auditor so appointed shall have the same powers of the investigating authority as stated in regulation 33 and the obligations of the person concerned in regulation 35 shall be applicable to the investigation under this regulation.

39. **Directions by the Board.**—On receipt of the report under regulation 36, the Board may without prejudice to its right to initiate criminal prosecution under section 24 of the Act give such directions as it deems fit for all or any of the purposes, namely :—

(a) directing the person concerned not to further deal in securities ;

(b) prohibiting the person concerned from disposing of any of the securities acquired in violation of these regulations ;

(c) directing the person concerned to sell the shares acquired in violation of the provisions of these regulations :

(d) taking action against the person concerned who is an intermediary holding a certification of registration under section 12 of the Act.

40. **Appeal to the Central Government.**—Any person who is aggrieved by an order of the Board under these regulations may prefer an appeal to the Central Government.

(Sd.) S.S. Nadkarni,
Chairman,
Securities and Exchange Board of India.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 306, dated 20th July, 1994.

MINISTRY OF CIVIL SUPPLIES & CONSUMER AFFAIRS

No. G.S.R. 591(E).—*(Dated 20th July, 1994)*.—In exercise of the powers conferred by Section 83 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following rules fur-

ther to amend the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, namely :—

1. (1) These rules may be called the **Standards of Weights and Measures (Packaged Commodities) Second Amendment Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. For the Third Schedule, the following shall be substituted, namely :—

"THE THIRD SCHEDULE

(See Rule 5)

Commodities to be packed in specified quantities

1. The following commodities shall be packed in such quantities by weight, measure or number as are specified in the corresponding entries against them.

Sl. No.	Commodities	Quantities in which to be packed
1	2	3
1.	Baby food	200g, 500g, 1kg, 2kg, 5kg and 10kg. Any manufacturer or packer packing baby food in 400g and weaning food in 500g shall not be allowed to do so beyond 180 days from the date of publication of this notification in the Official Gazette.
2.	Weaning Food	200g, 400g, 1kg, 2kg, 5kg and 10kg
3.	Biscuits	25g, 50g, 75g, 100g, 150g, 200g, 250g, 500g and thereafter in multiples of 100g up to 1kg.
4.	Bread including brown bread but excluding bun	100g, 200g, 400g, 800g, 1200g.
5.	Uncanned packages of butter and margarine	25g, 50g, 100g, 200g, 500g, 1kg, 2kg, 5kg and thereafter in multiples of 5kg.
6.	Cereals and Pulses	100g, 200g, 500g, 1kg, 2kg, 5kg and thereafter in multiples of 1 kg.
7.	Coffee	25g, 50g, 100g, 200g, 500g, 1kg and thereafter in multiples of 1kg.
8.	Tea	25g, 50g, 100g, 250g, 500g, 1kg and thereafter in multiples of 1kg.
9.	Materials which may be reconstituted as beverages.	25g, 50g, 100g, 200g, 500g, 1kg and thereafter in multiples of 1kg.
10.	Edible Oils.	50g, 100g, 200g, 500g, 1kg, 2kg, 5kg and thereafter in multiples of 5kg (If net quantity is declared by volume the same number in millilitres or litres, as the case may be.

1	2	3
11.	Vanaspati and ghee	50g, 100g, 200g, 500g, 1kg, 2kg, 5kg and thereafter in multiples of 5kg.
12.	Milk Powder	Below 50g no restriction, 50g, 100g, 200g, 500g, 1kg and thereafter in multiples of 500g
13.	Match sticks in boxes	10, 20, 30, 60 and 100 and thereafter in multiples of 50
14.	Non-soapy detergents (powder)	Below 50g no restriction, 50g, 100g, 200g, 500g, 700g, 1kg, 1.5kg, 2kg and thereafter in multiples of 1kg.
15.	Rice (powdered), flour, atta, rawa and suji	100g, 200g, 500g, 1kg, 2kg, 5kg and thereafter in multiples of 5kg.
16.	Salt	Below 50g in multiples of 10g, 50g, 100g, 200g, 500g, 1kg, 2kg, 5kg, and thereafter in multiples of 5kg.
17.	Soaps	
(a)	Laundry Soap	50g, 75g, 100g, and thereafter in multiples of 50g.
(b)	Non-soapy detergent cakes/bars	50g, 75g, 100g, 125g, 150g, 200g, 250g, 300g and thereafter in multiples of 100g.
(c)	Toilet Soap including all kinds of bath soap (cakes)	25g, 50g, 75g, 100g, 125g, 150g and thereafter in multiples of 50g.
18.	Aerated soft drinks and non-alcoholic be beverages	100ml, 150ml, 200ml, 250ml, 300ml, 330ml, (in cans only), 500ml, 750ml, 1 litre, 1.5 litre, 2 litre and thereafter in multiples of 1 litre up to 5 litre.
19.	Cement in bags	1kg 2kg, 5kg, 10kg, 20kg and 50 kg.
20.	Paint Varnish etc.	
(a)	Paint (other than paste paint or solid paint), varnish, varnish stains, enamels.	50ml, 100ml, 200ml, 500ml, 1 litre, 2 litre, 3 litre, 4 litre, 5 litre and thereafter in multiples of 5 litres.
(b)	Paste paint and solid paint.	500g, 1kg, 1.5kg, 2kg, 3kg, 5kg. 7kg and thereafter in multiples of 5 kg.

Note.—The provisions of this Schedule shall in no way affect the mode of realising the Central Excise Duty on any of the items mentioned above.".

3. In the Fourth Schedule, after Serial Number 14 and the entries relating thereto, the following serial number and the entries shall be inserted, namely :—

"14. A. All kinds of bath soaps.".

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 524, dated 16th December, 1994.

MINISTRY OF COMMUNICATIONS

G.S.R. 868(E).—(*New Delhi, 16th December, 1994*).—In exercise of the powers conferred by Section 7 of the Indian Telegraph Act, 1885 (13 of 1885), the Central Government hereby makes the following rules further to amend

the Indian Telegraph Rules, 1951, and G.S.R. No. 888 (E) dated 1-9-88 namely :

1. (i) These rules may be called the Indian Telegraph (Third Amendment) Rules, 1994.

(ii) They shall come into force on the date of their publication in the Official Gazette.

In the Indian Telegraph Rules, 1951, in rule 434, in Section XVII, for item (a), the following items shall be substituted, namely :—

(a) The charges for fascimile services on Telephone Exchange systems shall be as follows :—

(i) Fee for using telephone line for fascimile transmission exclusively for subscribers own use—Rs. 300 per annum.

(ii) Fee for using telephone line for fascimile transmission for public use—Rs. 6,000 per annum.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 412, dated 30th September, 1994.

MINISTRY OF FINANCE

G.S.R. 735 (E).—(*New Delhi, the 30th September, 1994*).—In exercise of the powers conferred by section 157, read with section 46, of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely :—

1. **Short title and commencement.**—(1) These regulations may be called the Import of Gold and Silver by Passengers (Form of Bill of Entry) Regulations, 1994.

(2) They shall come into force on the 1st date of November, 1994.

2. **Form of Bill of Entry.**—The Bill of Entry to be presented for ex-bond clearance for home consumption of gold or silver from a customs bonded warehouse by a passenger coming into India shall be in the form appended to these Regulations.

Form of Bill of Entry to be filed by a passenger intending to take delivery of gold or silver from a customs bonded warehouse in India

(Part A)

(To be completed by the passenger)

1. Name of the Airport ;
2. Flight No. and Date ;
3. Name of passenger :
4. Passport No. :
5. Description of goods ;
6. Quantity :

I apply for the permission to clear the gold/silver, as per the particulars given above, from the customs bonded warehouse subject to the provisions of the Customs Act, 1962 (52 of 1962).

(Signature of the passenger with date)

(Part B)

(To be completed by the Air Customs Officer)

7. Customs Tariff Heading No. :
8. Rate of duty
Exemption Notfn. No ;
9. Duty assessed

(a) in words ;
(b) in figures ;

Verified the particulars from the passport of the passenger. The passenger is eligible to clear the gold/silver from customs bonded warehouse in terms of Notfn. No. dated

(Signature of the A.C.O.)
Date ; (Counter signature by ACS)

(Part C)

(To be completed by the Bank Counter receiving customs duty)

10. Duty recovered in convertible foreign currency equivalent to Indian Rupee
(a) In words ;
(b) In figures ;
Date ;

(Signature & Seal of the Bank Officer)

(Part D)

(To be completed by the Customs Officer at the airport)

Passed out of customs charge.
Date ;

(Signature of Air Customs Superintendent)

(Part E)

(To be completed by the warehouse-keeper giving delivery)

11. Description ;
12. Marks and Nos ;
13. Quantity delivered ;
14. Bond No. ;
Place
Date ;

(Signature of warehouse keeper with seal)

Received the gold/silver as per particulars mentioned above.

(Signature of the passenger taking delivery with date)

(Part F)

(For Audit)

15. Amount of short recovery :
16. Amount of excess recovery ;
Date ;

(Signature of the Audit Officer)

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 538, dated 12th August, 1994.

MINISTRY OF FINANCE

G.S.R. 632 (E).—*(New Delhi, the 12th August, 1994)*.—In exercise of the powers conferred by section 40 of the Finance Act, 1979 (21 of 1979), the Central Government hereby makes the following rules further to amend the Foreign Travel Tax Rules, 1979, namely :—

1. (1) These rules may be called the Foreign Travel Tax (Amendment) Rules, 1994.

(2) They shall come into force on the 1st day of September, 1994.

2. In rule 4 of the Foreign Travel Tax Rules, 1979 (hereinafter referred

to as the said rules), the proviso shall be omitted.

3 In rule 7 of the said rules,—

(i) in sub-rule (1) for the words "amount specified in the notice", the words "amount of tax specified in the notice and the interest, if any, payable thereon" shall be substituted ;

(ii) in sub-rule (2), for the words, "the amount so determined", the words "the amount of tax so determined and the interest, if any, payable thereon" shall be substituted.

4. In rule 9 of the said rules the proviso shall be omitted.

5. In rule 10 of the said rules, after the words "or other document was prepared", the following words shall be inserted, namely ;—

"and such challans, vouchers return or other document shall be produced before an Officer of Customs as and when required to do so".

6. After rule 10 of the said rules, the following rule shall be inserted, namely ;—

"10A. Penalty for failure to comply with the provisions of the rules,—

(1) Any carrier who fails to file a return showing the amount of tax collected, amount refunded and the amount paid in the treasury in the manner as specified under rule 9 shall be liable to a penalty which shall not be less than rupees two thousand but which may extend to rupees twenty thousand and to a further penalty not exceeding rupees five hundred for each day after the date when the return was due to be filed in accordance with the provisions of the said rule.

(2) Any carrier who fails to file a copy of the passengers' manifest in the manner required under rule 8 shall be liable to a penalty which shall not be less than rupees two thousand but which may extend to rupees twenty thousand and to a further penalty not exceeding rupees five hundred for each day after the date when manifest was due to be filed in accordance with the provisions of the said rule.".

7. After rule 13 of the said rules, the following rule shall be inserted, namely :—

"13A. **Deposit, pending appeal, of the tax and interest demanded or penalty levied.**—Where any appeal under rule 13 relates to any tax and the interest, if any, payable thereon, or any penalty levied under the Act or these rules the person desirous of appealing against such decision or order shall, pending the appeal, deposit with the Assistant Collector of Customs, the tax demanded and the interest if any payable thereon, or the penalty levied ;

Provided that where in any case the appellate authority is of the opinion that the deposit of tax demanded and the interest, if any, payable thereon, or the penalty levied would cause an undue hardship to such person, the appellate authority may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the interest of revenue.".

8. For rule 16 of the said rules, the following rule shall be substituted, namely ;—

"16. **Recovery of sums due to Government.**—

(1) Where any tax, interest or penalty is not paid by a carrier, the Assistant Collector of Customs may, after the tax, interest or penalty has been determined under the rules, proceed to recover the amount of such tax, interest or penalty by one or more of the modes specified in sub-rule (2) or

sub-rule (3).

(2) The Assistant Collector of Customs may require any person, from whom any amount is due to the carrier, to deduct the tax, interest or penalty so determined from the said amount and such person shall comply with the requisition by the Assistant Collector of Customs and shall pay the amount so deducted to the credit of the Central Government :

Provided that nothing in this sub-rule shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under section 60 of the Code of Civil Procedure, 1908 (5 of 1 08).

(3) The Assistant Collector of Customs may prepare a certificate signed by him specifying the amount due and send it to the Collector of the district in which the carrier owns property or resides or carries on business and the said Collector, on receipt of such certificate, shall proceed to recover from the said carrier or other person, the amonnt specified thereunder as if it were an arrear of land revenue."

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 367, dated 2nd September, 1994.

MINISTRY OF FINANCE

G.S.R. 665 (E).– (*New Delhi the 2nd September, 1994*).—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (1 of 1944), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the Central Excise (Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Appendix I to the Central Excise Act, 1944,—

(i) against Central Excise Series No. 56-A, in the column relating to 'Rule No.' for the figures, letters and brackets "96ZX (1)", the figures, letters and brackets "96ZA, 96ZX (1)" shall be substituted ;

(ii) after Central Excise Series No. 62CC and the entries relating thereto' the following Central Excise Series No. and entries shall be inserted namely :—

Central Excise Series No.	Description of Form	Rule No.	Short Title
"62CCC	Application for removal of stainless steel pattis/pattas manufactured under the special procedure.	96ZC	A.R. 8AA ;

(iii) against Central Excise Series No. 85, –

(a) in the column relating to 'Description of Form' after the words "marble slabs", the words "/stainless steel pattis or pattas" shall be inserted ;

(b) in the column relating to 'Rule No.', for the figures and letters "96ZH, 96ZW", the figures and letters "96ZA, 96ZH, 96ZW" shall be

substituted.

(2) In (li) Specimen Form,—

(i) in Form D.D. 2, for the figures, letters and brackets "96S, 96ZX (1), 96ZZZ (i)", occurring under headings "Notice of Miscellaneous demand for payment of duty", "Certificate of payment" and "Notice of Miscellaneous demand for payment of duty", the figures, letters and brackets "96S, 96ZB, 96ZX (1), 96ZZZ (i)" shall respectively be substituted ;

(ii) after A.R. 8A, the following Form shall be inserted, namely :—

"Central Excise Series No. 62-CCC

Original
Duplicate
Triplicate
Qudruplicate

Form A.R. 8AA

Application for removal of stainless steel pattis/pattas manufactured under the special procedure.

(Rule 96ZC)

Name of factory.....
Address.....

(1) I/We.....manufacturer(s) of stainless steel pattis/pattas residing at.....Taluka/Tehsil.....
District.....and holder(s) of Central Excise Registration No.....dated ..... having been permitted to avail myself/ourselves of the special provisions contained in section E-VI of Chapter V of the Central Excise Rules, 1944, in respect of my/our production and transactions in such stainless steel pattis/pattas at the above mentioned factory/factories hereby declare that I/We intend to install and employ the cold rolling machines for the production of stainless steel pattis/pattas during the year.....in the manner indicated below, and the total sum payable by me/us in terms of rule 96ZB in respect of the said period are stated hereunder ;

No. of cold rolling machines to be installed and employed	Rate prescribed in Government of India Notification No. 109/94-CE, dated 13-05-94.	Sum payable under Rule 96 ZB	Total
1	2	3	4

2. I/We tender herewith the sum of Rs.....(Rupees ..... only). The balance will be paid by me/us in monthly instalments.

3. I/We hereby declare that the particulars furnished herein are true and complete to the best of my/our knowledge and belief.

4. I/We apply for leave to remove from the above mentioned premises during the period from .....to..... any stainless steel patti/pattas manufactured in the said premises during the period.

5. I/We understand that the permission accorded to us for the year .... is subject to my/our paying the balance amount as indicated in paragraph 2 above.

Place.....
Date.....
To

Signature of manufacturer or his authorised agent

The Superintendent of Central Excise
.....Range
.....Division

COUNTERSIGNED

Place.....
Dated : .....

Superintendent of Central Excise
.....Range
.....Circle

Statement of duty paid :

(a) For payment in cash at.....

Treasury
State Bank of India
Reserve Bank of India

(To be filled in by the manufacturer or his authorised agent)

Name of person tendering payment	Particulars of payment	Amount (In words) as well as in figures)
1	2	3

Head of Account

C38—Union Excise Duties—Stainless steel pattis/pattas

(b) under the compounded levy scheme

Date.....

Signature of the tenderer

(To be filled in by the Treasury or Bank)

CERTIFICATE

Deposit Number.....

Date.....

Received payment of rupees (in words).....

Signature of Treasurer
Accountant
Agent or Manager

(c) For payment through current account :

Title of account or ledger	Number and date of entry	Amount (in words as well as in figures)
1	2	3

Place.....
Date.....

Signature of the manufacturer or his authorised agent

(d) For payment through T.R. 5/Special Revenue Money Order

Date of payment	T.R. 5 No./Special Revenue Money Order Coupon No.	Amount (in words as well as in figures)
1	2	3

Clearance allowed subject to fulfilment of the condition of deposits

Superintendent of Central Excise

Place.....
Date.....

Note.—Delete the entries not applicable.—

(iii) in Form A.S.P. (Central Excise Series No. 85) :

(a) in the heading, the words "/stainless steel pattis or pattas" shall be added at the end ;

(b) after the words "Marble slabs", wherever they occur, the words "/stainless steel pattis or pattas" shall be inserted.".

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 385, dated 13th September, 1994.

MINISTRY OF FINANCE

G.S.R. 689 (E).—*(New Delhi, the 13th September, 1994).*—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely ;—

1. (1) These rules may be called the **Central Excise (Tenth Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Chapter V of the Central Excise Rules, 1944 in the annexure below rule 57Q, in item (ii) the figures "51.01, 51.02, 51.06 and 51.07" shall be omitted.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 447, dated 26th October, 1994.

MINISTRY OF FINANCE

G.S.R. 780 (E).—*(New Delhi, the 26th October, 1994).*—Whereas certain draft rules further to amend the Securities Contracts (Regulation) Rules, 1957 were published as required by sub-section (1) of Section 30 of the Securities Contracts (Regulation) Act, 1955 (42 of 1956), in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), dated 5th August, 1994 under the Notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. G.S.R. 608 (E) dated 5th August, 1994 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of 45 days from the date on which the

copies of the Gazette of India in which the said Notification was published were made available to the public ;

And whereas the copies of the said Gazette were made available to the public on 31st August, 1994 ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 30 of the said Act, the Central Government hereby makes the following rules further to amend the Securities Contracts (Regulation) Rules, 1957, namely :—

1. (1) These rules may be called the **Securities Contracts (Regulation) (Third Amendment) Rules, 1994**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Securities Contracts (Regulation) Rules, 1957 ;—

(a) in the marginal heading of rule 10, for the words "Government nominees", the words "Nominees of the Securities and Exchange Board of India" shall be substituted ; and

(b) in rule 10 for the words "The Central Government", the words "The Securities and Exchange Board of India" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), dated 7th November, 1994.

MINISTRY OF FINANCE

G.S.R. 790 (E).—*(New Delhi, the 7th November, 1994).* —Whereas certain draft rules further to amend the Securities Contracts (Regulation) Rules, 1957 were published as required by sub-section (1) of section 30 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), in the Gazette of India, Extraordinary, Part II, section 3, sub-section (i) dated 7th July, 1994 under the Notification of the Government of India in the Ministry of Finance (Department of Economic Affairs) No. G.S.R 553 (E), dated 7th July, 1994 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of 45 days from the date on which the copies of the Gazette of India in the said Notification was published were made available to the public ;

And whereas the copies of the said Gazette were made available to the public on 22nd July, 1994 and no objections or suggestions have been received from the public on the said draft ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 30 of the said Act, the Central Government hereby makes the following rules further to amend the Securities Contracts (Regulation) Rules, 1957, namely ;—

1. (1) These rules may be called the **Securities Contracts (Regulation) (Fourth Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Securities Contracts (Regulation) Rules, 1957, in rule 8, in clause (4A), in sub-clause (iv) for the words, brackets, figure and letter "clause (1) [except sub-clause (f) thereof] or clause (3) [except sub-clause (f) thereof]" the words, brackets, figures and letters "clause (1) [except sub clause (b) and sub-clause (f) thereof]" or clause (3) [except sub-clause (a) and sub-clause (f) thereof]" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 475, dated 16th November, 1994.

MINISTRY OF INFORMATION AND BROADCASTING

G.S.R. 817 (E).– (*New Delhi, the 16th November, 1994*).—In exercise of the powers conferred by section 8 of the Cinematograph Act, 1952 (37 of 1952), the Central Government hereby makes the following rules further to amend the Cinematograph (Certification) Rules, 1983, namely :—

1. Short title and commencement.– (1) These rules may be called the Cinematograph (Certification) (Second Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Cinematograph (Certification) Rules, 1983,—

(1) after the rule 3, the following new rule shall be inserted, namely :—

"3A. Representation of women in the Board.—The Central Government may take such steps as it thinks fit to appoint women members in the Board so that there is due representation for women".

(2) in sub-rule (3) of rule 7, after the proviso, the following proviso shall be inserted, namely :—

"Provided further that there shall be due representation to women in an advisory panel."

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 476, dated 16th November, 1994.

MINISTRY OF INFORMATION AND BROADCASTING

G.S.R. 816 (E).– (*New Delhi, 16th November, 1994*).—In exercise of the powers conferred by section 8 of the Cinematograph Act, 1952 (37 of 1952), the Central Government hereby makes the following rules further to amend the Cinematograph (Certification) Rules, 1983, namely :—

1. Short title and commencement.—(1) These rules may be called the Cinematograph (Certification) (Second Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 24 of the Cinematograph (Certification) Rules, 1983,—

(1) at the end of sub-rule (2), the following proviso shall be added, namely :—

"Provided that subject to the provisions of sub-rule (11), the Chairman shall give due representation to women in the Committee by nominating such number of women members as he thinks fit."

(2) for the existing sub-rule (11), the following shall be substituted, namely :—

"(11) The quorum of the Revising Committee shall be five members of whom at least two persons shall be women :

Provided that the number of women members shall not be less than one-half of the total members of a Committee constituted under sub-rule (2)."

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 487, dated 30th November, 1994.

MINISTRY OF FINANCE

G.S.R. 830 (E).—(*New Delhi, the 30th November, 1994*).—In exercise of the powers conferred by clause (b) of section 2 of the Central Excises and Salt

Act, 1944 (1 of 1944), read with rule 4 of the Central Excise Rules, 1944, the Central Board of Excise and Customs hereby invests the Collector of Central Excise (Appeals), Bangalore with all the powers exercisable by the Collector of Central Excise (Appeals), Hyderabad under the said Act and the rules made thereunder.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 487, dated 30th November, 1994.

MINISTRY OF FINANCE

G.S.R. 831 (E).—*(New Delhi, the 30th November, 1994).*—In exercise of the powers conferred by clause (b) of section 2 of Central Excises and Salt Act, 1944 (1 of 1944), read with rule 4 of the Central Excise Rules, 1944, the Central Board of Excise and Customs hereby invests the Collector of Central Excise (Appeals), Ghaziabad, with all the powers exercisable by the Collector of Central (Appeals), Allahabad under the said Act and the rules made thereunder.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 485, dated 28th November, 1994.

MINISTRY OF FINANCE

G.S.R. 828 (E).—*(New Delhi, 28th November, 1994)*.—In exercise of the powers conferred by section 79 of the Foreign Exchange Regulation Act, 1973 (46 of 1973), the Central Government hereby makes the following rules to amend the Adjudication Proceedings and Appeal Rules, 1974, namely :—

1. (1) These rules may be called the **Adjudication Proceedings and Appeal (Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 6 of the Adjudication Proceedings and Appeal Rules, 1974,—

(a) for sub-rule (1), the following sub-rule shall be substituted, namely :—

"(1) Every appeal presented to the Appellate Board under section 52 shall be in the form of a memorandum signed by the appellant. The memorandum shall be sent in triplicate and accompanied by three copies of the order appealed against. On every appeal the amount of fee as given in the table below shall be paid in the form of demand draft payable in favour of the Registrar, Foreign Exchange Regulation Appellate Board, New Delhi.

TABLE

Sl. No.	Amount of penalty involved	Amount of fee payable
(1)	(2)	(3)
1.	Where the amount of penalty involved is Rs. 1 lakh or less than Rs 1 lakh.	Rs. 750
2.	Where the amount of penalty involved is more than Rs. 1 lakh and up to Rs 5 lakhs.	Rs. 1500
3.	Where the penalty involved is above Rs. 5 lakhs.	Rs. 2000";

(b) in sub-rule (2), in clause (b), for item (iii) the following shall be substituted, namely :—

"(iii) Whether the sum imposed by way of penalty under section 30 and the amount of fee prescribed in sub-rule (1) had been deposited".

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 459, dated 7th November, 1994.

MINISTRY OF COMMUNICATIONS

G.S.R. 793 (E).—*(New Delhi, the 7th November, 1994)*.—In exercise of the powers conferred by clause (d) of Sub-section 2 of Section 21 read with Section 74 of the Indian Post Office Act, 1898 (6 of 1898), the Central Government hereby makes the following rules further to amend the Indian Post Office Rules, 1993, namely :—

1. (1) These rules may be called the Indian Post Office (6th Amendment) Rules, 1994.

(2) They shall come into force on the First day of December, 1994.

2. In the Indian Post Office Rules, 1993 (hereinafter referred to as the said rules), after rule 33, the following rule shall be inserted, namely :—

"33A. Parcels may be booked on a special receipt to be granted by the Post Office as Express Parcel at Post Offices designated for the purpose by the Director General subject to the following conditions :

(a) A surcharge of Rs. 5 for every 500 grams weight of parcel or part thereof will be levied subject to a maximum surcharge of Rs. 50 per parcel in addition to the normal postage and registration fee ;

(b) Registration shall be compulsory for booking a parcel as Express Parcel ;

(c) A special receipt will be granted by the Post office for every parcel booked under the Express Parcel Service and no other receipt will be granted for its registration ;

(d) Express Parcels weighing not more than 10 Kgs will be presented for delivery at the address once Subsequently, it may be taken delivery of from the post office of delivery subject to the usual rules governing delivery of registered parcels ;

(e) Express parcels weighing over 10 Kgs will be delivered as in the case of registered parcels of such weight.".

3. In rule 66 of the said rules, for Clause (a) of Sub-rule (1). The following clause shall be substituted, namely :—

"(a) Any parcel exceeding 4 kilograms in weight or any parcel booked under "Express Parcel Service."

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 472, dated 14th November, 1994.

MINISTRY OF HEALTH AND FAMILY WELFARE

G.S.R. 812(E). —*(New Delhi, the 14th November, 1994)*.—Whereas a draft of certain rules further to amend the Drugs and Cosmetics Rules, 1945 was published as required by sections 12 and 33 of the Drugs and Cosmetics Act, 1940 (23 of 1940), with the Notification of the Government of India, in the Ministry of Health and Family Welfare (Department of Health) No.

GSR 110 (E) dated the 22nd February, 1994, in the Gazette of India, Extraordinary Part II, Section 3, sub-section (i), dated the 22nd February, 1994 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of period of sixty days from the date on which the copies of the Official Gazette were made available to the public.

And whereas the copies of the said Gazette were made available to the public on the 2-3-94.

And whereas objections and suggestions received from the public on the said draft rules have been taken into consideration by the Central Government.

Now, therefore, in exercise of the powers conferred by the Sections 12 and 33 of the said Act, the Central Government, after consultation with the Drugs Technical Advisory Board, hereby makes the following rules further to amend the Drugs and Cosmetics Rules, 1945, namely :—

1. (1) These rules may be called the **Drugs and Cosmetics (IXth Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Drugs and Cosmetics Rules, 1945 (hereinafter referred to as the said rules), in rule 15-E, in (1) for the words beginning with "and who has" and ending with the words "Homoeopathic medicines" the following words, brackets and figures shall be substituted, namely :—

"and who is—

(a) a graduate in Science with Chemistry as one of the Subjects with three years experience in manufacture of Homoeopathic Medicines ; or

(b) a graduate in Pharmacy with 18 months of experience in the manufacture of Homoeopathic medicines ; or

(c) holds qualification as defined under sub-clause (g) of clause (1) of section 2 of Homeopathy Central Council Act, 1973 (59 of 1973) with 18 months of experience in the manufacture of Homoeopathic medicines :

Provided that the persons who are already in employment with five years experience in the manufacture of Homoeopathic medicines and whose name was accordingly entered in any licence granted in Form 25G for manufacture of different classes of Homoeopatic medicines included in them shall be deemed to be qualified for the purpose of this rule",

3. In Schedule K to the said rules in entry 5A, the words "or by charity or voluntary subscription" shall be omitted.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), dated 14th November, 1994.

MINISTRY OF HEALTH AND FAMILY WELFARE

G.S.R. 807 (E).—(*New Delhi, the 14th November 1994*).– Whereas the certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955 were published as required by sub-section (1) of Section 23 of Prevention of Food Adulteration Act, 1954 (37 of 1954) in the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) No. GSR 674(E) dated the 27th October, 1993 in the Gazette of India Extraordinary, Part II, Section 3, sub-section (i) dated the 27-10-93 at pages 1 to 6 inviting objections and suggestions from all

persons likely to be affected thereby before the expiry of sixty days from the date on which copies of the Gazette of India in which the said notification was published were made available to the public ;

And whereas the copies of the said Gazette were made available to the Public on 4th January, 1994 ;

And whereas the objections and suggestions received from the public on the draft rules have been considered by the Central Government.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act, the Central Government, after consultation with the Central Committee for Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955, namely :—

RULES

1. (1) These rules may be called the **Prevention of Food Adulteration (VII-Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Appendix B of Prevention of Food Adulteration Rules, 1955, after item A.31, the following item shall be added, namely :—

"A. 32—Mineral Water :

1. Natural Mineral water means the mineral water obtained directly from potable natural or drilled sources like spring, artesian well, drilled well or from an underground formation and not from public water supply. It shall be free from dirt, foreign matter or any other ingredients injurious to health. It shall not be transported in bulk container for packaging or any processing before packing.

2. Fortified mineral water means the water derived from any source of potable water which may be blended, treated/fortified with mineral salts.

Mineral water shall be packed in clean and sterile containers.

Mineral water shall also conform to the following standards, namely :—

Turbidity (not more than) (NTU)	—5
Total dissolved solids (not more than) mg/l	—1500
pH Value	—6.5—8.5
Copper (cu)mg/l (not more than)	—1.0
Iron (as Fe) mg/l (not more than)	—0.3
Nitrate (as NO 3) mg/l (not more than)	—45
Residual Free Chlorine mg/l (not more than)	—0.2
Flouride (as F) mg/l (not more than)	—1.5
Mercury (as Hg) mg/l (not more than)	—0.001
Cadmium (as Cd) mg/l (not more than)	—0.01
Arsenic (as As) mg/l (not more than)	—0.05
Arsenic (as As) mg/l (not more than)	—0.05
Cyanide	—absent
Lead (as Pb) mg/l (not more than)	—0.05
Mineral Oil	—absent
Chromium (as Cr) mg/l (not more than)	—0.05
Chlorides (as Cl) mg/l (not more than)	—200
Sulphates (SO_4) mg/l (not more than)	—250
Alkalinity (as HCO_3) mg/l (not more than)	—600
Yeast & mould count	—absent

E. coli	—absent
Salmonella and Shigella	—absent
Clostridium Welchi, Botulinum	—absent
Basillus cereus	—absent
Vibre cholerae and V. Parahaemolyticus	—absent."

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 471, dated 14th November, 1994.

MINISTRY OF HEALTH AND FAMILY WELFARE

G.S.R. 811 (E) —*(New Delhi, the 14th November, 1994).*—Whereas a draft of certain rules to amend the Drugs and Cosmetics Rules, 1945 was published as required by sections 12 and 33 of the Drugs and Cosmetics Act, 1940 (23 of 1940), with the Notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) No. GSR 112 (E) dated the 22nd February, 1994, in the Gazette of India, Extraordinary Part II, Section 3, sub-section (i) dated the 22nd February, 1994 inviting objections and suggestions from all persons likely to be affected thereby before the expiry of period of sixty days from the date on which the copies of the Official Gazette were made available to the public.

And whereas the copies of the said Gazette were made available to the public on the 9-6-1994.

And whereas objections and suggestions received from the public on the said draft rules have been taken consideration by the Central Government.

Now, therefore, in exercise of the powers conferred by the Sections 12 and 33 of the said Act, the Central Government, after consultation with the Drugs Technical Advisory Board, hereby makes the following rules further to amend the Drugs and Cosmetics Rules, 1945, namely :—

1. (1) These rules may be called the **Drugs and Cosmetics (VIIIth Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Drugs and Cosmetics Rules, 1945 (hereinafter referred to as the said rules), for rule 134, the following rule shall be substituted, namely :

"134. **Cosmetic to contain Dyes, Colours and Pigments.**—No Cosmetic shall contain Dyes, Colours and Pigments other than those specified by the Bureau of Indian Standards (IS : 4707 Part I as amended) and Schedule Q.

The permitted Synthetic Organic Colours and Natural Organic Colours used in the Cosmetic shall not contain more than :—

(i) 2 parts per million of Arsenic calculated as Arsenic Trioxide.

(ii) 20 parts per million of lead calculated as lead.

(iii) 100 parts per million of Heavy Metals other than lead calculated as the total of the respective metals".

3. In the said rules, for rule 144, the following rules shall be substituted, namely :—

"144. **Prohibition of manufacture of Cosmetics containing colours other than those prescribed.**—No Cosmetic shall be manufactured which contains Dyes, Colours and Pigments other the one specified by the Bureau of Indian Standards (IS : 4707 Part I as amended) and Schedule Q.

The permitted Synthetic Organic colours and Natural Organic Colours used in the Cosmetic shall not contain more than :—

(i) 2 parts per million of Arsenic calculated as Arsenic Trioxide.

(ii) 20 parts per million of lead calculated as lead.

(iii) 100 parts per million of Heavy Metals other than lead calculated as the total of the respective metals".

4. In the said rules, in rule 149, for the words "Labelling of Hair Dyes containing Coal Tar Colours.- Hair dyes containing Para-Phenylendiamine or other Coal Tar Dye base or coal-tar dye intermediate" the words "labelling of Hair Dyes containing Dyes, Colours and Pigments—Hair Dyes containing Para-Phenylendiamine or other Dyes, Colours and Pigments" shall be substituted.

5. In the said rules, for the words, occurring in the heading of Part I of Schedule Q, the following words, figures and letters shall be substituted, namely :—

"List of Dyes, Colours and Pigments permitted to be used in Cosmetics and Soaps as given under IS ; 4707 (Part I)-1981 as amended by the Bureau of Indian Standards".

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 816, dated 12th December, 1994.

MINISTRY OF COMMUNICATIONS

G.S.R. 816 (E).— (*New Delhi, the 12th December, 1994*).—In exercise of the powers conferred by sections 10, 21, 24A 28, 29, 30, 31, 32, 36, 74 and 78 of the Indian Post Office Act, 1898 (6 of 1898), the Central Government hereby makes the following rules further to amend the Indian Post office Rules, 1993 namely :—

1. (1) These rules may be called the Indian Post Office (8th Amendment) Rules, 1994.

(2) They shall come into force on the 1st day of January, 1995.

2. In the Indian Post Office Rules, 1933,—

(1) in rule 6-A, for the words "rupees two", the words "rupees five" shall be substituted ;

(2) in rule 7, in sub-rule (2),—

(a) for the words "ten rupees" the words "fifteen rupee if released free of customs duty, and thirty rupees if released after levying customs duty" shall be substituted ; and

(b) for the words "twenty rupees", the words "thirty rupees" shall be substituted ;

(3) in rule 30-B, in sub-rule (1), for the words "rupee one", the words "rupees two" shall be substituted ;

(4) in rule 68, for the Table, the following Table shall be substituted namely :—

TABLE

(i) Letter, air letter, Post card and packet	Fifteen Rupees
(ii) Bulk bag of printed matter	Seventy five rupees' ;

(5) in rule 71, in sub-rule (1), for the Table indicating the Fee, the

following Table shall be substituted, namely :—

'TABLE

Registered articles	Fee	
	For Bhutan and Nepal	For other foreign countries
1	2	3
(i) For "Blind Literature" Packets	Nil	Nil
(ii) For articles other than "Blind Literature Packets	Rs. 1.00	Rs. 10.0

(6) in rule 71-A, in sub-rule (2), for the Table indicating the Fee, the following Table shall substituted, namely :—

'TABLE

Registered articles	Fee	
	For Bhutan and Nepal	For other foreign countries
1	2	3
(i) For "Blind Literature" Packets only	Nil	Nil
(ii) For articles other than "Blind Literature" Packets	Rs. 1.00	Rs. 10.00' ;

(7) for rule 85, the following rule shall be substituted, namely :—

"85. In addition to postage and in the case of letters, apart from the registration fee, the following further fees shall be charged for insurance :—

(a) When the value insured does not exceed Rs. 500/- Rs. 10.00

(b) When the value insured exceed Rs. 500/- for every additional Rs. 500/- or fraction thereof upto Rs. 20,000/- Rs. 10.00" ;

(8) in rule 92, in sub-rule (1), in clause (b), for the portion relating to the Table of Insurance Fee, the following shall be substituted, namely :—

"(i) When the value insured does not exceed Rs. 500/- Rs. 10.00

(ii) When the value insured exceeds Rs. 500/- for every additional Rs. 500/- or fraction thereof upto Rs. 20,000,- Rs. 10.00" ;

(9) in rule 195, in sub-rule (1), in clause (b), for the words "twenty paise", the words "rupees two" shall be substituted ;

(10) in rule 197, in sub-rule (1), for the portion beginning with "Foreign Postal Articles—" and ending with "Whether registered or unregistered", the following shall be substituted, namely :—

"Foreign Postal Articles, For each letter, air letter (aerogramme), postcard or Packet, whether registered or unregistered Rs. 2.00".

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 303, dated 7th December, 1994.

MINISTRY OF HEALTH AND FAMILY WELFARE

G.S.R. 847 (E).—*(New Delhi, the 7th December, 1994).*—Whereas certain draft rules further to amend the Prevention of Food Adulteration Rules, 1955 were published as required by sub-section (1) of Section 23 of Prevention of Food Adulteration Act, 1954 (37 of 1954) with the notification of the Government of India, in the Ministry of Health and Family Welfare (Department of Health) GSR No 694(E) dated the 9th November, 1993 in Gazette of India, Extraordinary Part II Section 3, sub-section (i) dated the 9th November, 1993 at page 1—6 inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of sixty days from the date on which copies of the Gazette of India in which the said notification was published were made available to the public ;

And whereas, the copies of the said Gazette were made available to the public on 2nd December, 1993 ;

And whereas the objection and suggestions received from the public on the draft rules have been considered by the Central Government ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act, the Central Government after consultation with the Central Committee for Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955, namely:—

RULES

1. (i) These rules may be called **the Prevention of Food Adulteration (VIIth Amendment) Rules, 1994.**

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. In the Prevention of Food Adulteration Rules, 1955 (hereinafter referred to as the said rules).

(i) In rule 42, after clause (y) the following clause shall be inserted namely :—

'yy'—A package containing tea with added flavour shall bear the following label, namely :—

FLAVOURED TEA

(Common name of permitted flavour/percentage Registration No.

3. After rule 44-E of the said rules, the following rule shall be inserted namely :—

"44F Conditions for sale of flavoured tea :—

(i) Flavoured tea shall be sold or offered for sale only by those manufacturers who are registered with Tea Board. Registration No. shall be mentioned on the label.

(ii) It shall be sold only in packed conditions with label declaration as provided in clause 'yy' of rule 42.".

4. In Appendix B of the said rules, in items A 14 and A.14.01 :—

(i) The words 'or added flavouring matter' shall be omitted.

(ii) after the second proviso of item A-14 and the third proviso of item A.14 01 the following proviso shall be inserted, namely :—

"Provided also that tea for domestic market may contain added vanillin flavour upto a maximum extent of 8 3 per cent by weight under proper label declaration as provided in sub-rule (yy) of rule 42"

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "aeronautical communication station" means a station in the aeronautical communication service which includes aeronautical practising service, aeronautical fixed service, aeronautical mobile service and aeronautical radio communication service ;

(b) "airport" means landing and taking off area for aircrafts, usually with runways and aircraft maintenance and passenger facilities and includes aerodrome as defined in clause (2) of section 2 of the Aircraft Act, 1934 (22 of 1934 ;

(c) "airstrip" means an area used or intended to be used for the landing and take-off of aircrafts with short take off and landing characteristics and includes all buildings and structures thereon appertaining thereto ;

(d) "air traffic service" includes flight information service, altering service, air traffic advisory service, air traffic control service, area control service, approach control service and airport control service ;

(e) "air transport service" means any service, for any kind of remuneration, whatsoever, for the transport by air of persons, mail or any other thing, animate or inanimate, whether such service relates to a single flight or series of flights ;

(f) "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint for the purposes of section 3 ;

(g) "Authority" means the Airport Authority of India constituted under section 3 ;

(h) "Chairperson" means the Chairperson of the Authority appointed under clause (a) of sub-section (3) of section 3 ;

(i) "civil enclave" means the area, if any, allotted at an airport belonging to any armed force of the Union, for use by persons availing of any air transport services from such airport or for the handling of baggage or cargo by such service, and includes land comprising of any building and structure on such area ;

(j) "heliport" means an area, either a ground level or elevated on a structure, use or intended to be used for the landing and take-of of helicopters and includes any area for parking helicopters and all buildings and structures thereon or appertaining thereto ;

(k) "International Airports Authority" means the International Airports Authority of India constituted under section 3 of the International Airports Authority Act, 1971 (43 of 1971) ;

(l) "member" means a member of the Authority and includes the Chairperson, but does not include, for the purposes of sections 4, 5, 6 and 7, an ex officio member referred to in clause (b) of sub-section (3) of section 3 ;

(m) "National Airports Authority" means the National Airports Authority constituted under section 3 of the National Airports Authority Act, 1985 (64 of 1985) ;

CHAPTER II

The Airports Authority of India

3. **Constitution and incorporation of the Authority.**—(1) With effect from the appointed day, the Central Government shall, by notification in the Official Gazette, constitute an authority to be called the Airports Authority

of India.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall consist of—

(a) a Chairperson to be appointed by the Central Government ;

(b) the Director General of Civil Aviation, or an officer not below the rank of the Deputy Director General of Civil Aviation, to be appointed by the Central Government, ex officio ;

(c) not less than eight and not more than fourteen members to be appointed by the Central Government.

(4) The Chairperson shall be a whole-time member and other members referred to in clause (c) of sub section (3) may be appointed as whole time or part-time members as the Central Government may think fit.

(5) The Chairperson and the members referred to in clause (c) of sub-section (3) shall be chosen from among persons who have special knowledge and experience in air transport or any other transport services, industry, commercial or financial matters or administration and from among persons who are capable of representing organisations of workers and consumers.

4. **Disqualification for office of member.**—A person shall be disqualified for being appointed as a member if he—

(a) has been convicted and sentenced to imprisonment for an offence, which, in the opinion of the Central Government, involves moral turpitude ; or

(b) is an undischarged insolvent ; or

(c) is of unsound mind and stands so declared by a competent court ; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government ; or

(e) has in the opinion of the Central Government such financial or other interest in the Authority as is likely to affect prejudicially the discharge by him of his functions as a member.

5. **Term of office and conditions of service of members.**—(1) Subject to the provisions of section 6,—

(i) every whole-time member (other than the ex officio member) shall hold office for a period of five years from the date on which he assumes office or till he attains the age of sixty years whichever is earlier, and

(ii) every part-time member (other than the ex officio member) shall hold office for a period of three years from the date on which he assumes office ;

Provided that the Central Government may—

(a) terminate the appointment of any whole-time member, who is not a servant of the Government, after giving him notice for a period of not less than three months or, in lieu thereof, on payment of an amount equal to his salary and allowances, if any, for a period of three months ;

(b) terminate the appointment of any part-time member who is not a servant of the Government after giving him notice for such period as may be prescribed ; and

(c) terminate at any time the appointment of any member who is a servant of the Government.

(2) The other conditions of service of the members shall be such as may be prescribed.

(3) Any member may resign his office by giving notice in writing for such period as may be prescribed, to the Central Government and, on such resignation being notified in the Official Gazette by that Government, such member shall be deemed to have vacated his office.

6. **Vacation of office of member.**—The Central Government shall remove a member if he—

(a) becomes subject to any of the disqualifications mentioned in section 4 :

Provided that no member shall be removed on the ground that he has become subject to the disqualification mentioned in clause (c) of that section, unless he has been given a reasonable opportunity of being heard in the matter ; or

(b) refuses to act or becomes incapable of acting ; or

(c) is, without obtaining leave of absence from the Authority, absent from three consecutive meetings of the Authority ; or

(d) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the public interest :

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

7. **Eligibility of member for re-appointment.**—Any person ceasing to be a member shall, unless disqualified under section 4, be eligible for re-appointment.

8. **Meetings.**—(1) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of the business at its meetings (including the quorum at such meetings) as may be provided by regulations.

(2) The Chairperson, or, if for any reason he is unable to attend any meeting of the Authority, any other member chosen by the members present at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of the votes of the members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have and exercise a second or casting vote.

9. **Vacancies, etc., not to invalidate proceedings of the Authority.**—No act or proceeding of the Authority shall be invalid merely by reason of -

(a) any vacancy in, or any defect in the constitution of, the Authority ; or

(b) any defect in the appointment of a person acting as a member of the Authority ; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

10. **Appointment of officers and other employees of the Authority.**—(1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Authority shall, subject to the provisions of section 18 and to

such rules as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary :

Provided that the appointment of such category of officers, as may be specified after consultation with the Chairperson in such rules, shall be subject to the approval of the Central Government.

(2) Subject to the provisions of section 18, every officer or other employee appointed by the Authority shall be subject to such conditions of service and shall be entitled to such remuneration as may be determined by regulations.

11. **Authority to act on business principles.**—In the discharge of its functions under this Act, the Authority shall act, so far as may be, on business principles.

CHAPTER III
Functions of the Authority

12. **Functions of the Authority.**—(1) Subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of the Authority to manage the airports, the civil enclaves and the aeronautical communication stations efficiently.

(2) It shall be the duty of the Authority to provide air traffic service and air transport service at any airport and civil enclaves.

(3) Without prejudice to the generality of the provisions contained in sub-sections (1) and (2), the Authority may –

(a) plan, develop, construct and maintain runways, taxiways, aprons and terminals and ancillary buildings at the airports and civil enclaves ;

(b) plan, procure, instal and maintain navigational aids, communication equipment, beacons and ground aids at the airports and at such locations as may be considered necessary for safe navigation and operation of aircrafts ;

(c) provide air safety services and search and rescue, facilities in co-ordination with other agencies ;

(d) establish schools or institutions or centres for the training of its officers and employees in regard to any matter connected with the purposes of this Act ;

(e) construct residential buildings for its employees ;

(f) establish and maintain hotels, restaurants and restrooms at or near the airports ;

(g) establish warehouses and cargo complexes at the airports for the storage or processing of goods ;

(h) arrange for postal, money exchange, insurance and telephone facilities for the use of passengers and other persons at the airports and civil enclaves ;

(i) make appropriate arrangements for watch and ward at the airports and civil enclaves ;

(j) regulate and control the plying of vehicles, and the entry and exit of passengers and visitors, in the airports and civil enclaves with due regard to the security and protocol functions of the Government of India ;

(k) develop and provide consultancy, construction or management services, and undertake operations in India and abroad in relation to airports, air-navigation services, ground aids and safety services or any facili-

ties thereat ;

(l) establish and manage heliports and airstrips ;

(m) provide such transport facility as are, in the opinion of the Authority, necessary to the passenges travelling by air ;

(n) form one or more companies under the Companies Act, 1956 (1 of 1956) or under any other law relating to companies to further the efficient discharge of the functions imposed on it by this Act ;

(o) take all such steps as may be necessary or convenient for, or may be incidental to, the exercise of any power or the discharge of any function conferred or imposed on it by this Act ;

(p) perform any other function considered necessary or desirable by the Central Government for ensuring the safe and efficient operation of aircraft to, from and across the air space of India ;

(q) establish training institutes and workshops ;

(r) any other activity at the airports and the civil enclaves in the best interests of the Authority including cargo handling setting up of joint ventures for the discharge of any functions assigned to the Authority.

(4) In the discharge of its functions under this section, the Authority shall have due regard to the development of air transport service and to the efficiency, economy and safety of such service.

(5) Nothing contained in this section shall be construed as—

(a) authorising the disregard by the Authority of any law for the time being in force ; or

(b) authorising any person to institute any proceeding in respect of duty or liability to which the Authority or its officers or other employees would not otherwise be subject.

CHAPTER IV

Property and Contract

13. Undertakings of the International Airports and the National Airports Authority to vest in the Authority.—(1) On and from the appointed day, there shall be transferred to, and vest in, the Authority constituted under section 3, the undertakings of the International Airports Authority and the National Airports Authority.

2. The undertaking of the International Airports Authority or the National Airports Authority which is transferred to, and which vests in, the Authority under sub-section (1) shall be deemed to include all assets, rights powers, authorities and privileges and all property movable and immovable real and personal, corporeal or incorporeal, present or contingent, of whatever nature and wheresoever situate, including lands, buildings, machinery, equipments, works, workshops, cash balances, capital, reserves, reserve funds investments, tenancies, leases and book debts and all other rights and interests arising out of such property as were immediately before the appointed day in the ownership, possession or power of the International Airports Authority, or as the case may be, the National Airports Authority, in relation to its undertaking, whether within or outside India, all books of accounts and documents relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the International Airports Authority, or as the case may be, the National Airports Authority in relation to its undertaking.

14. General effect of vesting of undertaking in the Authority.—(1)

All contracts, agreements and working arrangements subsisting immediately before the appointed day and affectidg the International Airports Authority, or as the case may be, the National Airports Authority shall, in so far as, they relate to the International Airports Authority, or as the case may be, the National Airports Authority, cease to have effect or be enforceable against the International Airports Authority, or as the case may be, the National Airports Authority and shall be of as full force and effect against or in favour of the Authority in which the undertakings have vested by virtue of this Act and enforceable as fully and effectually as if, instead of the International Airports Authority, or as the case may be, the National Airports Authority, the Authority had been named therein or had been a party thereto.

(2) Any proceeding, suit or cause of action pending or existing immediately before the appointed day by or against the International Airports Authority or the National Airports Authority in relation to its undertakings may, as from that day, be continued and enforced by or against the Authority in which it has vested by virtue of this Act, as it might have been enforced by or against the International Airports Authority or the National Airports Authority if this Act had not been passed, and shall cease to be enforceable by or against the International Airports Authority, or as the case may be, the National Airports Authority.

15. Licences, etc., to be deemed to have been granted to the Authority.—With effect from the appointed day, all licences, permits, quotas and exemptions, granted to the International Airports Authority or the National Airports Authority in connection with the affairs and business of the International Airports Authority, or as the case may be, the National Airports Authority, under any law for the time being in force, shall be deemed to have been granted to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

16. Tax exemption or benefit to continue to have effect.—(1) Where any exemption from, or any assessment with respect to, any tax has been granted or made or any benefit by way of set off or carry forward, as the case may be, of any unabsorbed depreciation or investment allowance or other allowance or loss has been extended or is available to the International Airports Authority or the National Airports Authority Authority, under the Income Tax Act, 1961 (43 of 1961), such exemption, assessment or benefit shall continue to have effect in relation to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

(2) Where any payment made by the International Airports Authority or the National Airports Authority is exempt from deductions of the tax at source under any provision of the Income Tax Act, 1961 (43 of 1961), the exemption from tax will continue to be available as if the provisions of the said Act made applicable to the International Airports Authority or the National Airports Authority were operative in relation to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

(3) The transfer and vesting of the undertakings or any part thereof in terms of section 13 shall not be construed as a transfer within the mean-

iag of the Income Tax Act, 1961 (43 of 1961) for the purposes of this Act.

17. Guarantee to be operative.—Any guarantee given for or in favour of the International Airports Authority or the National Airports Authority with respect to loan or lease finance shall continue to be operative in relation to the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested by virtue of this Act.

18. Provisions in respect of officers and other employees of the International Airports Authority and the National Airports Authority.—(1) (a) Every officer or other employee of the International Airports Authority serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Authority by virtue of this Act, becomes, as from the appointed day, an officer or, as the case may be, other employee of the International Airports Division of the Authority.

(b) Every officer or other employee of the National Airports Authority serving in its employment immediately before the appointed day shall, in so far as such officer or other employee is employed in connection with the undertaking which has vested in the Authority by virtue of this Act, becomes, as from the appointed day, an officer or, as the case may be, other employee of the National Airports Division of the Authority.

(2) Every officer or other employee of the International Airports Authority or the National Airports Authority who becomes an officer or, as the case may be, other employee of the Authority, as referred to in sub-section (1), shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, passage, insurance, superannuation scheme, provident fund, other funds, retirement, pension, gratuity and other benefits as he would have held under the International Airports Authority or, as the case may be, the National Airports Authority if its undertaking had not vested in the Authority and shall continue to do so as an officer or other employee, as the case may be, of the Authority or until the expiry of a period of one year from the appointed day if such officer or other employee opts not to be the officer or other employee of the Authority within such period :

Provided that if the Authority thinks it expedient to extend the period so fixed, it may extend the same up to a maximum period of one year.

(3) Where an officer or other employee of the International Airports Authority or the National Airports Authority opts under sub-section (2) not to be in the employment or service of the Authority in which the undertakings of the International Airports Authority and the National Airports Authority have vested, such officer or other employee shall be deemed to have resigned from the respective cadre.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), or in any other law for the time being in force, the transfer of the services of any officer or other employee of the International Airports Authority or the National Airports Authority to the Authority shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(5) The officers and other employees who have retired before the ap-

pointed day from the office the service of the International Airports Authority or the National Airports Authority and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Authority in which the undertaking of the International Airports Authority and the National Airports Authority have vested.

(6) The trusts of the Provident Fund and Group Insurance and Superannuation Scheme of the International Airports Authority or the National Airports Authority and any other bodies created for the welfare of officers or employees would continue to discharge their functions in the Authority as was being done hitherto in the International Airports Authority or the National Airports Authority and tax exemption granted to Provident Fund or Group Insurance and Superannuation Scheme would continue to be applied to the Authority.

(7) After the expiry of the period of one year, or the extended period, as referred to in sub-section (2), all the officers and other employees transferred and appointed to the Authority, other than those opting not to be the officers or employees of the Authority within such period, shall be governed by the rules and regulations made by the Authority in respect of the service conditions of the officers and other employees of the said Authority.

19. **Compulsory acquisition of land for the Authority.**—Any land required by the Authority for the discharge of the functions under this Act shall be deemed to be needed for a public purpose and such land may be acquired for the Authority under the provisions of the Land Acquisition Act, 1894 (1 of 1894) or of any other corresponding law for the time being in force.

20. **Contracts by the Authority.**— Subject to the provisions of section 21, the Authority shall be competent to enter into and perform any contract necessary for the discharge of its functions under this Act.

21. **Mode of executing contracts on behalf of the Authority.**— (1) Every contract shall, on behalf of the Authority, be made by the Chairperson or such other member or such officer of the Authority as may be generally or specially empowered in this behalf by the Authority and such contracts or class of contracts as may be specified in the regulations shall be sealed with the common seal of the Authority :

Provided that no contract exceeding such value or amount as the Central Government may, from time to time, by order, fix in this behalf shall be made unless it has been previously approved by the Authority :

Provided further that no contract for the acquisition or sale of immoveable property or for the lease of any such property for a term exceeding thirty years and no other contract exceeding such value or amount as the Central Government may, from time to time, by order, fix in this behalf shall be made unless it has been previously approved by the Central Government.

(2) Subject to the provisions of sub-section (1), the form and manner in which any contract shall be made under this Act shall be such as may be specified by regulations.

(3) No contract which is not in accordance with the provisions of this Act and the regulations shall be binding on the Authority.

CHAPTER V

Finance, Accounts and Audit

22. **Power of the Authority to charge fees, rent, etc.**—The Authority may,—

(i) With the previous approval of the Central Government, charge fees or rent—

(a) for the landing, housing or parking of aircraft or for any other service or facility offered in connection with aircraft operations at any airport, heliport or airstrip ;

Explanation.—In this sub-clause "aircraft" does not include an aircraft belonging to any armed force of the Union and "aircraft operations" does not include operations of any aircraft belonging to the said force ;

(b) for providing air traffic services, ground safety services, aeronautical communications and navigational aids and meteorological services at any airports and at any aeronautical communication station ;

(c) for the amenities given to the passengers and visitors at any airport, civil enclave, heliport or airstrip ;

(d) for the use and employment by persons of facilities and other services provided by the Authority at any airport, civil enclave, heliport or airstrip ;

(iii) with due regard to the instructions that the Central Government may give to the Authority, from time to time, charge fees or rent from persons who are given by the Authority any facility for carrying on any trade or business at any airport, heliport or airstrip.

23. **Additional capital and grant to the Authority by the Central Government.**—The Central Government may, after due appropriation made by Parliament by law in this behalf,—

(a) provide any capital that may be required by the Authority for the discharge of its functions under this Act or for any purpose connected therewith on such terms and conditions as that Government may determine ;

(b) pay to the Authority, on such terms and conditions as the Central Government may determine, by way of loans or grants such sums of money as that Government may consider necessary for the efficient discharge by the Authority of its functions under this Act.

24. **Fund of the Authority and its investment.**—(1) The Authority shall have its own fund and all receipts of the Authority shall be credited thereto and all payments of the Authority shall be made therefrom.

(2) The Authority shall have power, subject to the provisions of this Act, to spend such sums as it thinks fit to cover all administrative expenses of the Authority and on objects or for purposes authorised by this Act and such sums shall be treated as expenditure out of the fund of the Authority.

(3) All monys standing at the credit of the Authority which cannot immediately be applied as provided in sub-section (2), shall be—

(a) deposited in the State Bank of India or any such Scheduled bank or banks or other public financial institutions subject to such conditions as may, from time to time, be specified by the Central Government ; and

(b) invested in the securities of the Central Government or in such manner as may be prescribed.

Explanation.— In this sub-section, "Scheduled bank" has the same mean-

ing as in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934).

25. **Allocation of surplus funds.**—(1) The Authority may, from time to time, set apart such amounts as it thinks fit as a reserve fund or funds for purpose of expanding existing facilities or services or creating new facilities or services at any airport, civil enclave, heliport or airstrip or for the purpose of providing against any temporary decrease of revenue or increase of expenditure from transient causes or for purposes of replacement or for meeting expenditure arising from loss or damage from fire, cyclone, air-crash or other accident or for meeting any liability arising out of any act or commission in the discharge of its functions under this Act ;

Provided that without prejudice to the right of the Authority to establish specific reserves for one or more specific purposes, the Authority shall also have the power to establish a general reserve :

Provided further that the sums set apart annually in respect of each or any of the specific and general reserves and the aggregate at any time of such sums shall not exceed such limits as may, from time to time, be fixed in that behalf by the Central Government.

(2) After making provision of such reserve fund or funds and for bad and doubtful debts, depreciation in assets and all other matters which are usually provided for by companies registered and incorporated under the Companies Act, 1956 (1 of 1956), the Authority shall pay the balance of its annual net profits to the Central Government.

26. **Submission of programme of activities and financial estimates.**—(1) The Authority shall, before the commencement of each financial year, prepare a statement of the programme of its activities during the forthcoming financial year as well as financial estimate in respect thereof.

(2) The statement prepared under sub-section (1) shall, not less than three months before the commencement of each financial year, be submitted for approval to the Central Government.

(3) The statement and the financial estimates of the Authority may, with the approval of the Central Government, be revised by the Authority.

27. **Borrowing powers of the Authority.**—(1) The Authority may, with the consent of the Central Government or in accordance with the terms of any general or special authority given to it by the Central Government, borrow money from any source by the issue of bonds, debentures or such other instruments as it may deem fit for discharging all or any of its functions under this Act.

(2) The Central Government may guarantee in such manner as it thinks fit, the repayment of the principal and the payment of interest thereon with respect to the loans borrowed by the Authority under sub-section (1).

(3) Subject to such limits as the Central Government may, from time to time, lay down, the Authority may borrow temporarily by way of over draft or otherwise such amounts as it may require for discharging its functions under this Act.

28. **Accounts and audit.**—(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the profit and loss account and the balance-sheet in such

form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Authrity to the Comptoller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the adit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts connected vouchers, documents and papers and inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

CHAPTER VI
Miscellaneous

29. Submission of annual report.—(1) The Authority shall, as soon as may be after the end of each financial year, prepare and submit to the Central Government in such form as may be prescribed a report giving an account of its activities during that financial year and the report shall an account of the activities which are likely to be undertaken by the Authority during the next financial year.

(2) The Central Government shall cause such report to be laid before both Houses of Parliament as soon as may be after it is submitted.

30. Delegation.—The Authority may, by general or special order in writing, delegate to the Chairperson or any other member or to any officer of the Authority, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act, (except the powers under section 42) as it may deem necessary.

31. Authentication of orders and other instruments of the Authority.—All orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the Authority in this behalf and all other instruments executed by the Authority shall be authenticated by the signature of an officer of the Authority authorised by it in this behalf.

32. Officers and employees of the Authority to be public servants.—All officers and employees of the Authority shall, while acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

33. Protection of action taken to good faith.—No suit, prosecution or other legal proceeding shall lie against the Authority or any member or any officer or other employee of the Authority for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder or for any damage sustained by any aircraft or vehicle in consequence of any defect in any of the airports, civil enclaves,

heliports, airstrips, aeronautical communication stations or other things belonging to or under the control of the Authority.

34. **Custody and disposal of lost property.**—Subject to such regulations as the Authority may make in this behalf, the Authority shall provide for securing the safe custody and restoration of any property which, while not in proper custody, is found on any premises belonging to the Authority or under its overall control or in any aircraft on any such premises.

35. **Provisions relating to income-tax.**—For the purposes of the purposes of the Income-tax Act, 1961 (43 of 1961), or any other enactment for the time being in force relating to income-tax or any other tax on income, profits or gains, the Authority shall be deemed to be a company within the meaning of the Income-tax Act, 1961 and shall be liable to tax accordingly on its income, profits and gains.

36. **Power of the Authority to undertake certain works.**—The Authority may undertake to carry out on behalf of any person any works or services or any class of works or services on such terms and conditions as may be agreed upon between the Authority and the person concerned.

37. **Power to issue directions.**—(1) The Authority or any officer specially authorised by it in this behalf may from time to time, by order, issue directions, consistent with the provisions of the Aircraft Act, 1934 (22 of 1934) and the rules made thereunder, with respect to any of the matters specified in clauses (f), (h), (i), (j), (k), (m), (p), (qq) and (r) of sub-section (2) of section 5 of that Act, to any person or persons engaged in aircraft operations or using any airport, heliport, airstrip or civil enclave, in any case where the Authority or the officer is satisfied that in the interests of the security of India or for securing the security of the aircraft it is necessary to do so.

(2) Every direction issued under sub-section (1) shall be complied with by the person or persons to whom such direction is issued.

(3) If any person wilfully fails to comply with any direction issued under this section, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees, or with both.

38. **Power of the Central Government to temporarily divest the Authority of the management of any airport.**—(1) If, at any time, the Central Government is of opinion that in the public interest it is necessary or expedient so to do, it may, by order, direct the Authority to entrust the administration, management or similar other functions of any airport, heliport, airstrip, civil enclave, aeronautical communication station, or any other agency or department of any airport, heliport, airstrip, civil enclave or aeronautical communication station with effect from such date and to such person as may be specified in the order and the Authority shall be bound to comply with such direction :

Provided that before an order is made under this sub-section the Authority shall be given a reasonable opportunity of being heard in the matter.

(2) Where the management of any airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof is entrusted to any person specified under sub-section (1) (hereafter referred to in this section as the authorised person), the Authority shall cease to exercise and discharge all its powers and functions under this

Act in relation to such airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof and such powers and functions shall be exercised and discharged by the authorised person in accordance with the instructions, if any, which the Central Government may give to the authorised person from time to time :

Provided that no such power or function as may be specified by the Central Government by a general or special order shall be exercised or discharged by the authorised person except with the previous sanction of the Central Government.

(3) An order made under sub-section (1) shall, unless rescinded, be in operation for a period of six months from the date on which the management of the airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof is entrusted to the authorised person ;

Provided that the Central Government may extend such period for a further period or periods not exceeding eighteen months.

(4) During the operation of an order made under sub-section (1), it shall be competent for the Central Government to issue, from time to time, such directions to the Authority as are necessary to enable the authorised person to exercise the powers and discharge the functions of the Authority under this Act in relation to the airport, heliport, airstrip, civil enclave or aeronautical communication station, or any other agency or department thereof the management of which has been entrusted to him and in particular to transfer any sum of money from the fund of the Authority to the authorised person for the management of the airport, heliport, airstrip civil enclave or aeronautical communication station or any other agency or department thereof and every such direction shall be complied with by the Authority.

(5) On the cessor of operation of any order made under sub-section (1) in relation to any airport, heliport airstrip civil enclave or aeronatical communication station, or any other agency or department thereof the authorised person shall cease to exercise and perform the powers and functions of the Authority under this Act in relation to such airport, heliport airstrip, civil enclave or aeronautical communication station or any other agency or department thereof and the Authority shall continue to exercise and perform such powers and functions in accordance with the provisions of this Act.

(6) On the cessor of operation of any order made under sub-section (1) in relation to any airport, heliport, airstrip, civil enclave or aeronautical communication station, or any other agency or department thereof the authorised person shall hand over to the Authority any property (including any sum of money or other assets) remaining with him in connection with the management of such airport, heliport, airstrip, civil enclave or aeronautical communication station.

(7) Anything done or any action taken lawfully by the authorised person in relation to any airport, heliport, airstrip, civil enclave or aeronautical communication station or any other agency or department thereof during the period of operation of an order made under sub-section (1) shall be deemed to have been done or taken by the Authority and shall be binding on the Authority.

39. Power of the Central Government to supersede the Authority.—(1)

If at any time, the Central Government is of opinion—

(a) that on account of a grave emergency, the Authority is unable to discharge the functions and duties imposed on it by or under the provisions of this Act ; or

(b) that the Authority has persistently made default in complying with any direction issued by the Central Government under this Act or in the discharge of the fuctions and duties imposed on it by or under the provisions of this Act and as a result of which default the financial position of the Authority or the administration of any airport, heliport, airstrip, civil enclave or aeronautical communication station has deteriorated ; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification in the Official Gazette, supersede the Authority for such period, not exceeding six months, as may be specified in the notification :

Provided that before issuing a notification under this sub-section for the reasons mentioned in clause (b), the Central Government shall give a reasonable opportunity to the Authority to show cause why it should not be superseded and shall consider the explanations and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the members shall, as from the date of supersession, vacate their offices as such ;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority, shall until the Authority is re-constituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct ;

(c) all property owned or controlled by the Authority shall until the Authority is re-constituted under sub-section (3), vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may.

(a) extend the period of supersession for such further terms not exceeding six months, as it may consider necessary ; or

(b) re-constitute the Authority by fresh appointment and in such case the members who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for appointment :

Provided that the Central Government may, at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action clause (b) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before both Houses Parliament at the earliest opportunity.

40. **Power of the Central Government to issue directions.**—(1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such

directions on questions of policy as the Central Government may give in writing to it from time to time :

Provided that the Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

(3) The Central Government may, from time to time, issue directions to the Authority regarding the discharge of any functions to it under clause (c) of sub-section (3) of section 13 and the Authority shall be bound to comply with such directions

41. **Power to make rules.**—(1) The Central Government may, by notification in the Official Government, make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the period of notice as may be given by the Central Government to terminate the appointment of any part-time member of the Authority under clause (b) of proviso to sub-section (1) of section 5 ;

(b) the conditions of service of the members of the Authority under sub-section (2) of section 5 ;

(c) the period of notice as may be given by any member to resign his office under sub-section (3) of section 5 ;

(d) the provisions subject to which officers and other employees may be appointed by the Authority and the category of officers to be appointed after approval of the Central Government under the proviso to sub-section (1) of section 10 ;

(e) the provisions subject to which the Authority may manage the airports, civil enclaves and aeronautical communication stations under sub-section (1) of section 12 ;

(f) the manner in which the Authority may invest its funds under clause (b) of sub-section (3) of section 24 ;

(g) the form in which the annual statement of accounts shall be prepared by the Authority under sub-section (1) of section 28 ;

(h) the form in which a report giving an account of its activities shall be prepared and submitted by the Authority to the Central Government under sub-section (1) of section 29 ; and

(i) any other matter which is to be, or may be, prescribed.

42. **Power to make regulations.**—(1) The Authority may make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the time and places of the meetings of the Authority and the procedure to be followed for the transaction of business including the quorum at such meetings under sub-section (1) of section 8 ;

(b) the conditions of service and the remuneration of officers and other employees to be appointed by the Authority under sub-section (2) of section 10 ;

(c) the construction of residential accommodation for the officers and other employees appointed by the Authority under clause (e) of sub-section (3) of section 12 ;

(d) the storage or processing of goods in any warehouse established by the Authority under clause (g) of sub-section (3) of section 12 and the charging of fees for such storage or processing ;

(e) the contracts or class of contracts which are to be sealed with the common seal of the Authority and the form and manner in which a contract may be made by the Authority under sub-section (1) of section 21 ;

(f) the custody and restoration of lost property and the terms and conditions under which lost property may be restored to the persons entitled thereto under section 34 ;

(g) the disposal of any lost property in cases where such property is not restored ;

(h) securing the safety of aircraft, vehicles and persons using the airport or civil enclave and preventing danger to the public arising from the use and operation of aircraft in the airport or civil enclave ;

(i) preventing obstruction within the airport or civil enclave for its normal functioning ;

(j) prohibiting the parking or waiting of any vehicle or carriage within the airport or civil enclave except at places specified by the Authority ;

(k) prohibiting or restricting access to any part of the airport or civil enclave ;

(l) preserving order within the airport or civil enclave and preventing damage to property therein ;

(m) regulating or restricting advertising within the airport or civil enclave ;

(n) requiring any person, if so directed by an officer appointed by the Authority in this behalf, to leave the airport or civil enclave or any particular part of the airport or civil enclave ; and

(o) generally for the efficient and proper management of the airport or civil enclave.

(3) A regulation made under any of the clauses (b) to (o) (both inclusive) of sub-section (2) may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) No regulation made by the Authority under this section shall have effect until it has been approved by the Central Government and published in the Official Gazette.

(5) Notwithstanding anything contained in this section, the first regulations under this Act shall be made by the Central Government and shall have effect on being published in the Official Gazette.

(6) The first regulations framed under sub-section (5) shall remain in force until such time the Authority has made regulations and they are published in the Official Gazette.

43. Rules and regulations to be laid before Parliament.—Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a

PART III

PRESIDENT'S ACTS, ORDINANCES & REGULATIONS

1995

Published in the Gazette of India, Extraordinary, Part II, Section 1, No. 77, dated October 10, 1994.

THE CONTINGENCY FUND OF INDIA (AMENDMENT) ORDINANCE, 1994

ORDINANCE NO. 10 OF 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

An Ordinance further to amend the Contingency Fund of India Act, 1950.

Whereas Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :

1. **Short title and commencement.**—(1) This Ordinance may be called the Contingency Fund of India (Amendment) Ordinance, 1994.

(2) It shall come into force at once.

2. **Act 49 of 1950 to be temporarily amended.**—During the period of operation of this Ordinance, the Contingency Fund of India Act, 1950 (49 of 1950) (hereinafter referred to as the principal Act) shall have effect subject to the amendment specified in section 3.

3. **Amendment of Section 3.**—To section 3 of the principal Act, for the proviso, the following proviso shall be substituted, namely :—

'Provided that during the period beginning on the date of commencement of the Contingency Fund of India (Amendment) Ordinance, 1994, and ending on the 31st day of March, 1995, this section shall have effect subject to the modification that for the words "fifty crores of rupees", the words "eight hundred and forty crores of rupees" shall be substituted.'.

SHANKER DAYAL SHARMA,
President.

Published in the Gazette of India, Extraordinary, Part II, Section 1, No. 80, dated November 16, 1994.

THE SPECIAL PROTECTION GROUP (AMENDMENT) ORDINANCE, 1994

ORDINANCE NO. 12 OF 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

An Ordinance further to amend the Special Protection Group Act, 1988.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Special Protection Group (Amendment) Ordinance, 1994.

(2) It shall come into force at once.

2. **Amendment of section 4 of Act 34 of 1988.**—In sub-section (1) of section 4 of the Special Protection Group Act, 1988, in clause (ii), for the words "five years", the words "ten years" shall be substituted.

SHANKER DAYAL SHARMA.
President.

Published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 29th September, 1994.

THE CABLE TELEVISION NETWORKS (REGULATION) ORDINANCE, 1994

ORDINANCE NO 9 OF 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

An Ordinance to provide for the regulation of the operation of cable television networks in the country and for matters connected therewith or incidental thereto.

Whereas the Cable Television Networks (Regulations) Bill, 1993 was introduced in the Rajya Sabha and the said Bill is pending in that House ;

And whereas Parliament is not in session and that President is satisfied that circumstances exist which render it necessary for him to take immediate action. ;

Now therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance ;—

CHAPTER I
Preliminary

1. **Short title and commencement.**—(1) This Ordinance may be called the Cable Television Networks (Regulation) Ordinance, 1994.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless the content otherwise re-

quires,—

(a) "cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network ;

(b) "cable service" means the transmission by cables of programmes including re-transmission (by cables of any broadcast television signals) ;

(c) "cable television network" means any system consisting of a set of closed transmission paths and associated signals generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers ;

(d) "company" means a company as defined in section 3 of the Companies Act, 1956 (1 of 1956) ;

(e) "person" means—

(i) an individual who is a citizen of India ;

(ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India ;

(iii) a company in which not less than fifty-one per cent of the paid-up share capital is held by the citizens of India ;

(f) "prescribed" means prescribed by rules made under this Ordinance ;

(g) "programme" means any television broadcast and includes—

(i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players ;

(ii) any audio or visual or audio-visual live performance or presentation,

and the expression "programming service" shall be construed accordingly ;

(h) "registering authority" means such authority as the Central Government may, by notification in the Official Gazette, specify to perform the functions of the registering authority under this Ordinance ;

(i) "subscriber" means a person who receives the signals of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

CHAPTER II

Regulation of Cable Television Network

3. Cable television network not to be operated except after registration.—No person shall operate its cable television network unless he is registered as a cable operator under this Ordinance :

Provided that a person operating a cable television network, immediately before the commencement of this Ordinance, may continue to do so for a period of ninety days from such commencement, and if he has made application as a cable operator under section 4 within the said period, till he is registered under that section or the registering authority refuses to grant registration to him under that section.

4. Registeration as cable operator.—(1) Any person who is operating or is desirous of operating a cable television network may apply for registration as cable operator to the registering authority.

(2) An application under sub-section (1) shall be made in such form and be accompanied by such fee as may be prescribed.

(3) On receipt of the application, the registering authority shall

satisfy itself that the applicant has furnished all the required information and on being so satisfied, register the applicant as a cable operator and grant to him a certificate of such registration :

Provided that the registering authority may, for reasons to be recorded in writing and communicated to the applicant, refuse to grant registration to him if it is satisfied that he does not fulfil the condition specified in clause (c) of section 2.

5. **Programme code.**—No person shall transmit or re-transmit through a cable service any programme unless such programme is in conformity with the prescribed programme code :

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

6. **Advertisement code.**—No person shall transmit or retransmit through a cable service any advertisement unless such advertisement is in conformity with the prescribed advertisement code :

Provided that nothing in this section shall apply to the programmes of foreign satellite channels which can be received without the use of any specialised gadgets or decoder.

7. **Maintenance of register.**—Every cable operator shall maintain a register in the prescribed form indicating therein brief the programmes transmitted or retransmitted through the cable service during a month and such register shall be maintained by the cable operator for a period of one year after the actual transmission or re-transmission of the said programmes.

8. **Compulsory, transmission of two Doordarshan satellite channels.**—(1) Every cable operator using a dish antenna or Television Receiver only shall, from the commencement of this Ordinance, re-transmit at least two Doordarshan satellite channels of his choice through the cable service.

(2) The Doordarshan channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.

9. **Use of standard equipment in cable television network.**—No cable operator shall, on and from the date of the expiry of a period of three years from the date of the establishment and publication of the Indian Standard by the Bureau of Indian Standards in accordance with the provisions of the Bureau of Indian Standards Act, 1986 (63 of 1986), use any equipment in his cable television network unless such equipment conforms to the said Indian Standard.

10. **Cable television network not to interfere with any telecommunication system.**—Every cable operator shall ensure that the cable television network being operated by him does not interfere, in any way, with the functioning of the authorised telecommunication systems.

CHAPTER III

Seizure and confiscation of certain equipment

11. **Power to seize equipment used for operating cable television network.**—(1) If any officer, not below the rank of a Group 'A' officer of the Central Government authorised in this behalf by the Government (hereinafter referred to as the authorised officer), has reason to believe that the provisions of section 3 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for opera-

ting the cable television network.

(2) No such equipment shall be retained by the authorised officer for a period exceeding ten days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made, has been obtained for such retention.

12. **Confiscation.**—The equipment seized under sub-section (1) of Section 11 shall be liable to confiscation unless the cable operator from whom the equipment has been seize, registers himself as a cable operator under Section 4 within a period of thirty days from the date of seizure of the said equipment.

13. **Seizure or confiscation of equipment not to interfere with other punishment.**—No seizure or confiscation of equipment referred to in Section 11 or Section 12 shall prevent the infliction of any punishment to which the person affected thereby is liable under the provisions of this Ordinance.

14. **Giving of opportunity to the cable operator of seized equipment.**—(1) No order adjudicating confiscation of the equipment referred to in Section 12 shall be made unless the operator has been given a notice in writing, informing him of the grounds on which it is proposed to confiscate such equipment and giving him a reasonable opportunity of making a representation in writing, within such reasonable time as may be specified in the notice against the confiscation and if he so desires of being heard in the matter;

Provided that where no such notice is given within a period ten days from the date of the seizure of the equipment, such equipment shall be retured after the expiry of that period to the cable operator from whose possession it was seized.

(2) Save as otherwise provide in sub-section (1), the provisions of the Code of Civil Procedure, 1903 (5 of 1908) shall, so far as may be, apply to every proceeding referred to in sub-section (1).

15. **Appeal.**—(1) Any person aggrieved by any decision of the court adjudicating a confiscation of the equipment may prefer an appeal to the court to which an appeal lies from the decision of such court.

(2) The appellate court may, after giving the appellant an opportunity of being heard, pass such order as it thinks fit confirming, modifying or revising the decision appealed against or may send back the case with such directions as it may think fit for a fresh decision or adjudication, as the case may be, after taking additional evidence if necessary.

(3) No further appeal shall lie against the order of the court made under sub-section (2).

CHAPTER IV
Offences and Penalties

16. **Punishment for contravention any of the provisions of this Ordinance.**—Whoever contravenes any of the provisions of this Ordinance shall be punishable,—

(a) for the first offence, with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees or with both;

(b) for every subsequent offence, with imprisonment for a term which may extend to five years and with fine which may extend to five thousand

rupees.

17. **Offences of companies.**— (1) Where an offence under this Ordinance has been committed by a company every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly or other association of individuals ; and

Explanation.— For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals ; and

(b) "director" in relation to a firm, means a partner in the firm.

18. **Cognizance of offences.**— No court shall take cognizance of any offence punishable under this Ordinance except upon a complaint in writing made by such officer, not below the rank of a Group 'A' officer of the Central Government, as the State Government may, by notification in the Official Gazette, specify in this behalf.

CHAPTER V
Miscellaneous

19. **Power to prohibit transmission of certain programmes in public interest.**— Where an officer, not below the rank of a Group 'A' officer of the Central Government authorised by the State Government in this behalf, thinks it necessary or expedient so to do in the public interest he may, by order, prohibit any cable operator from transmitting or retransmitting any particular programme if it is likely to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatered or ill-will between different religious, racial, linguistic or regional groups or castes or communities or which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities and which disturbs or a likely to disturb the public tranquility.

20. **Power to prohibit operation of cable television network in public interest.**—Where the Central Government thinks it necessary or expedient so to do in the public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

21. **Application of other laws not barred.**—The provisions of this Ordinance shall be in addition to, and not in derogation of, the Drugs and Cosmetics Act, 1940 (23 of 1940) the Pharmacy Act, 1948 (8 of 1948) the

Emblems and Names (Prevention of Improper Use) Act, 1950 (12 of 1950) the Drugs (Control) Act, 1950 (26 of 1950) the Cinematograph Act, 1952 (37 of 1952) the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, (21 of 1954) the Prevention of Food Adulteration Act, 1954, (37 of 1954) the Prize Competitions Act, 1955, (42 of 1955) the Copyright Act, 1957 (14 of 1957) the Trade and Merchandise Marks Act, 1958 (43 of 1958) the Indecent Representation of Women (Prohibition) Act, 1986 (60 of 1986) and the Consumer Protection Act, 1986 (68 of 1986).

21. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

(a) the form of application and the fee payable under sub-section (2) of section 4 ;

(b) the programme code under section 5 ;

(c) any other matter which is required to be, or may be prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified for or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

SHANKER DAYAL SHARMA,
President,

Published in the Gazette of India, Extraordinary, Part II, Section 1, No. 78, dated October 12, 1994.

THE INDUSTRIAL DEVELOPMENT BANK OF INDIA (AMENDMENT) ORDINANCE, 1994

ORDINANCE NO. 11 OF 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

An Ordinance further to amend the Industrial Development Bank of India Act, 1964.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance—

1. Short title and commencement.—This Ordinance may be called the **Industrial Development Bank of India (Amendment) Ordinance, 1994.**

(2) It shall come into force at once.

2. **Amendment of section 2.**—In section 2 of the Industrial Development Bank of India Act, 1964 (18 of 1964), (hereinafter referred to as the principal Act), for clause (d), the following clause shall be substituted, namely :—

'(d) "Industrial Finance Corporation" means the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956 (1 of 1956)' ;

3. **Substitution of section 4.**—For section 4 of the principal Act, the following section shall be substituted, namely :—

"4. **Authorised capital.**—(1) The authorised capital of the Development Bank shall be two thousand crores of rupees divided into one hundred and fifty crores fully paid-up equity shares of rupees ten each and, subject to provisions of section 4E, fifty crores of fully paid-up redeemable preference shares of rupees ten each.

(2) The Development Bank may, from time to time, by a resolution in general meeting, increase the authorised capital to an amount not exceeding five thousand crores of rupees consisting of such number of equity shares and redeemable preference shares as it deems fit.

4. **Amendment of section 4A.**—In section 4A of the principal Act, sub-section (2) shall be omitted.

5. **Insertion of new sections 4C, 4D and 4E.**—After section 4B of the principal Act, the following sections shall be inserted, namely :—

"4C. **Issued capital.**—(1) The issued capital of the Development Bank of seven hundred and fifty three crores of rupees which stands fully vested in and subscribed by the Central Government immediately before the commencement of the Industrial Development Bank of India (Amendment) Ordinance, 1994 shall, on such commencement stand divided into seventy five crores and thirty lakhs equity shares of rupees ten each.

(2) The Board may, from time to time, increase the issued equity share capital of the Development Bank by allotment of shares to such persons and on such terms and conditions as the Board may determine :

Provided that no increase in the issued equity capital shall be made in such a manner that the Central Government holds at any time less than fifty-one per cent. of the issued equity capital of the Development Bank.

4E. **Reduction of share capital.**—(1) The Development Bank may, by a resolution passed in a general meeting of the shareholders, reduce it share capital in any way.

(2) Without prejudice to the generality of the foregoing power, the share capital may be reduced by,—

(a) extinguishing for reducing the liability on any of its equity shares in respect of share capital not paid up ;

(b) either with or without extinguishing or reducing liability on any of its equity shares, cancelling any paid up share capital which is lost, or is unrepresented by available assets ; or

(c) either with or without extinguishing or reducing liability on any of its equity shares, paying of any paid up share capital which is in excess of the wants of the Development Bank.

(3) In any general meeting referred to in sub-section (1), the resolution for reduction of share capital shall be passed by shareholders entitled to vote, voting in person, or, where provies are allowed, by proxy, and the

Classes" means and includes Vimukta Jatis and Nomadic Tribes. and such classes or parts of, or groups within such Classes as are declared, from time to time, by the State Government to be the Other Backward Classes.".

5. **Amendment of section 9 of Mah. XL of 1965.**—In section 9 of the Maharashtra Municipal Councils Act, 1965 (hereinafter referred to as "the Municipal Councils Act"),—

(1) in sub-section (1), in the proviso, in clause (ii), for the words "and the Scheduled Tribes", the words "the Scheduled Tribes and the Other Backward Classes" shall be substituted ;

(2) in sub-section (2),—

(a) in clause (b),—

(i) for the words "and the Scheduled Tribes", the words "the Scheduled Tribes and the Other Backward Classes" shall be substituted ;

(ii) for the words, brackets and figures "the Maharashtra Municipal Corporations and Municipalities (Second Amendment) Act, 1990" the following shall be substituted, namely :—

"the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993" ;

(b) after clause (c), the following clause shall be inserted, namely :—

"(d) the number of seats to be reserved for the Other Backward Classes in the case of municipal area of each Class of Council on the basis of as nearly as may be twenty seven per cent of the total number of seats to be filled in by direct election for the purpose of any general election held after the commencement of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1993 :

Provided that, while making such reservation as nearly as may be thirty per cent of the total number of seats so reserved shall be reserved for women belonging to the Other Backward Classes.

Explanation.—In this clause, the expression "Other Backward Classes" means and includes Vimukta Jatis and Nomadic Tribes, and such classes or parts of, or groups within such Classes as are declared, from time to time, by the State Government to be the Other Backward Classes.".

6. **Amendment of section 10 of Mah. XL of 1965.**—In section 10 of the Municipal Councils Act,—

(1) in sub-section (1),—

(a) for the words "and the Scheduled Tribes", the words "the Scheduled Tribes and the Other Backward Classes" shall be substituted ;

(b) for the words "or Scheduled Tribes" the words "Scheduled Tribes or Other Backward Classes" shall be substituted ;

"(c) for the words "those Castes or, as the case may be, of those Tribes" the words "those Castes, those tribes or, as the case may be, those Classes," shall be substituted ;

(d) the second proviso shall be deleted.

(2) in sub-section (4), for the words "Scheduled Tribes" the words "Scheduled Tribes or Other Backward Classes" shall be substituted.

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the words "of a substantial nature" shall be substituted.

9. **Amendment of section 37 of Mah. XXXVII of 1966.**—In section 37 of the principal Act, in the marginal note, for the words "Minor modification" the word "Modification" shall be substituted.

10. **Amendment of section 38 of Mah. XXXVII of 1966.**—In section 38 of the principal Act, for the words "ten years", in both the places where they occur, the words "twenty years" shall be substituted.

11. **Amendment of section 43 of Mah. XXXVII of 1966.**—In section 43 of the principal Act, in the proviso, in clause (i), the following shall be added at the end, namely :—

"except in case of heritage building or heritage precinct ;".

12. **Amendment of section 50 of Mah. XXXVII of 1966.**—In section 50 of the principal Act, in sub-section (1), after the words "The Appropriate Authority" the brackets and words "(other than the Planning Authority)" shall be inserted.

13 **Amendment of section 53 of Mah. XXXVII of 1966.**—In section 53 of the principal Act, in sub-section (1), the words "within seven years of such development," shall be deleted.

14. **Amendment of section 58 of Mah XXXVII of 1966.**—In section 58 of the principal Act,

(a) after sub-section (3), the following sub-section shall be inserted, namely :—

"(3A) The development proposal approved by the State Government under sub-section (3) shall remain in force for a period of one year from the date of grant of such approval, and thereafter it shall lapse :

Provided that the officer in charge of the development may apply under intimation to the Planning Authority, to the State Government for extention of such period ; and thereupon the State Government may extend such period from year to year ; but such extended period shall in no case exceed three years :

Provided further that, such lapse shall not bar any subsequent application by the officer in charge of the development, for fresh approval to the development under the preceding sub-sections." ;

(b) in sub-section (4), for the figures and words "45, 47 and 48 shall not", the following shall be substituted, namely :—

"and 47 shall not, and section 46 shall, mutatis mutandis and section 48 shall, as modified by sub-section (3A)."

THE HINDU SUCCESSION (MAHARASHTRA AMENDMENT) ACT, 1994

The following Act of the Maharashtra Legislature, having been assented to by the President on the 25th November, 1994, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 6th December, 1994.

MAHARASHTRA ACT NO. XL OF 1994

An Act further to amend the Hindu Succession Act, 1956, in its application to the State of Maharashtra.

Whereas the Constitution of India has proclaimed equality before law as a Fundamental Right ;

And whereas the exclusion of the daughter from coparcenary ownership

merely by reason of her sex is contrary to the Constitutional mandate ;

And whereas such exclusion of the daughter has led to the creation of the socially pernicious dowry system with its attendant social evils ;

And whereas this baneful system of dowry has to be eradicted by positive measures which will simultaneously ameliorate the conditions of women in the Hindu Society ;

And whereas the Government of Maharashtra has recently announced a policy with a view to promote the welfare of the women ;

And whereas the said policy for women, inter alia, provides for the conferment of coparcentary right on the daughter of a coparcener in a Joint Hindu Family governed by Maharashtra Law ;

And whereas it is considered necessary further to amend the Hindu Succession Act, 1956 (30 of 1956), in its application to the State of Maharashtra, for the purposes aforesaid ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows ;—

1. **Short title and commencement.**—(1) This Act may be called the **Hindu Succession (Maharashtra Amendment) Act, 1994.**

(2) It shall be deemed to have come into force on the 22nd of June, 1994,

2. **Insertion of Chapter II-A in Act 33 of 1956.**—After section 29 of the Hindu Succession Act, 1956, (30 of 1956), in its application to the State of Maharashtra (hereinafter referred to as "the principal Act"), the following Chapter shall be inserted, namely :—

"CHAPTER II-A

Succession by Survivorship

29-A. **Equal rights to daughter in coparcenary property.**—Notwithstanding anything contained in section 6 of this Act,—

(i) in a Joint Hindu Family governed by the Mitakshara Law, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as a son and have the same rights in the coparcenary property as she would have if she had been a son, inclusive of the right to claim by survivorship ; and shall be subject to the same liabilities and disabilities in respect thereto as the son ;

(ii) at a partition in a Joint Hindu Family referred to in clause (i), the coparcenary property shall be so divided as to allot to a daughter the same share as is allotable to a son ;

Provided that the share which a pre-deceased son or a pre-deceased daughter would have got at the partition if he or she had been alive at the time of partition shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter ;

Provided further that the share allotable to the pre-deceased child of a pre-deceased son or a pre-deceased daughter, if such child had been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or of the pre-deceased daughter, as the case may be ;

(iii) any property to which a female Hindu becomes entitled by virtue of the provisions of clause (i) shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act or any other law for the time being in force, as property

to by the Governor on the 6th December, 1994, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 7th December, 1994.

MAHARASHTRA ACT NO. XLIII OF 1994

An Act further to amend the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

Whereas both Houses of the State Legislature were not in session ;

And whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965), for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Ordinance, 1994 (Mah. Ord. XVII of 1994), on the 2nd November 1994 ;

And whereas it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the **Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Act, 1994**

(2) It shall be deemed to have come into force on the 2nd November 1994.

2. **Amendment of section 169 of Mah. XL of 1965.**—In section 169 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965) (hereinafter referred to as "the principal Act"),—

(a) for sub-section (3), the following sub-section shall be substituted, namely :—

"(2) Appeal against any claim for taxes on buildings and lands or both including other dues in relation thereto if any included in the bill presented to any person under section 150 may be made, at the discretion of the assessee,—

(a) first to the Property Tax Appeal Committee for each Municipal Council, consisting of the following members, namely :—

(i) Collector of the District or his nominee, not below the rank of a Deputy Collector. — ex-officio Chairman.

(ii) President of the Council .... — ex-officio member ;

(iii) Chairperson of the Women and Child Welfare Committee and where there is no such Committee constituted then Chairperson of any other Subjects Committee as the Council may determine, till the constitution of such Committee. — ex-officio member ;

(iv) One member of the Standing Committee to be nominated by the Council. — member ;

(v) An officer of the Town Planning and Valuation Department other than the concerned Valuation Officer not below the rank of a Town Planner to be nominated by the Deputy Director of Town Planning of the concerned Division. — member ;

(b) directly to any Judicial Magistrate or Bench of such Magistrates by whom under the direction of the Sessions Judge such class of cases is to be tried ;

Provided that an appeal against the decision of the Property Tax Appeal Committee under clause (a) shall lie to the Judicial Magistrate or Bench of such Magistrates referred to in clause (b) ;" ;

(b) in sub-sections (3) and (5) to (8), for the word "Tribunal" wherever it occurs, the word "Committee" shall be substituted ;

(c) in the marginal note, for the word "Tribunal" the word "Committee" shall be substituted.

2. **Amendment of section 170 of Mah. XL of 1965.**—In section 170 of the principal Act,—

(a) in the opening portion, for the words "such appeal" the words "appeal under the last preceding section" shall be substituted ;

(b) for clause (a), the following shall be substituted, namely ;—

"(a) the appeal,—

(i) under sub-section (1) or under clause (b) of sub-section (2) of section 169 is brought within fifteen days, next after the presentation of the bill complained of ;

(ii) under clause (a) of sub-section (2) of section 169, to the Property Tax Appeal Committee is brought within fifteen days, next after the presentation of the bill complained of ; and

(iii) under the proviso to sub-section (2) of section 169, to the Judicial Magistrate against the decision of the Property Tax Appeal Committee is, brought within fifteen days, next after the decision of that Committee ;

Provided that in cases where no appeals are pending before any Judicial Magistrate against any claim made in any bill presented in pursuance of the assessment list finally made before the coming into force of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Act, 1994 (Mah. XLIII of 1994), an appeal may be made within ninety days, next after the coming into force of the said Act," ;

(c) in clause (c), for sub-clause (ii), the following shall be substituted, namely :—

"(ii) the appellant under sub-section (2) of section 169 has paid in the municipal office,—

(A) the full amount of tax as paid by him for the last preceding assessment year ;

(B) in respect of new properties being assessed for the first time, thirty per cent of the amount of tax claimed in the bill by the Council ;" ;

(d) clause (d) shall be deleted.

4. **Substitution of section 171 of Mah. XL of 1965.**—For section 171 of the principal Act, the following section shall be substituted, namely ;—

"171. **Revision by court.**—The decision of the Magistrate or Bench of Magistrates in appeal made under section 169 shall, at the instance of either party, be subject to the revision by the Court to which appeals against the decision of such Magistrate or Bench of Magistrates ordinarily lie.".

5. **Power to remove difficulties.**—If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act, the State

Government may, as occasion arises by order do anything not inconsistent with such provisions, which appears to it to be necessary or expedient for the purposes of removing, the difficulty :

Provided that, no such order shall be made after the expiry of a period of two years from the 2nd November 1994.

6. **Repeal of Mah. Ord. XVII of 1994 and saving.**—(1) The Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Ordinance, 1994 (Mah. Ord. XVII of 1994) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken, as the case may be, under the principal Act, as amended by this Act.

THE MAHARASHTRA MUNICIPAL CORPORATIONS AND MUNICIPAL COUNCILS, NAGAR PANCHYATS AND INDUSTRIAL TOWNSHIPS (AMENDMENT) ACT, 1994

The following Act of the Maharashtra Legislature having been assented to by the Governor in December, 1994 was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 7th December, 1994.

MAHARASHTRA ACT NO. XLIV OF 1994

An Act further to amend the Bombay Municipal Corporation Act, the Bomby Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporations Act, 1948 and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

Whereas both Houses of the State Legislature were not in session ;

And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Municipal Corporation Act (Bom. III of 1888), the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), the City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950) and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965), for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Municipal Corporations and Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Ordinance, 1994 (Mah. Ord. XVIII of 1994), on the 11th November, 1994 ;

And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows ;—

CHAPTER I
Preliminary

1. **Short title and commencement.**—(1) This Act may be called the Maharashtra Municipal Corporations and Municipal Councils, Nagar Panchayats and Industrial Townships (Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 11th November, 1994.

CHAPTER II
Amendment to the Bombay Municipal Corporation Act, (Bom. III of 1888)

2. Insertion of section 18AA in Bom. III of 1888.—After section 18A of the Bombay Municipal Corporation Act (Bom. III of 1888), the following section shall be inserted, namely :—

"**18AA. Power of State Election Commissioner to issue directions to prevent impersonation.**—The State Election Commissioner may, with a view to prevent impersonation of electors at the time of election, issue such directions, as he thinks fit, to the presiding officers and such directions may include instructing the electors to produce, at the time of polling, the photo identity cards issued to them under the provisions of the Representation of the Peoples Act, 1951 (43 of 1951).".

CHAPTER III

Amendment to the Bombay Provincial Municipal Corporations Act, 1949

3. Amendment of section 7A of Bom. LIX of 1949.—In section 7A of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) (hereinafter, in this Chapter, referred to as 'the Provincial Corporation Act'), in sub-section (4), for the words "forty-five days" the words "fifteen days" shall be substituted,

4. Amendment of section 7AA of Bom. LIX of 1949.—In section 7AA of the Provincial Corporations Act,—

(a) in sub-section (1), after the words "to such officer of the State Election Commission" the words "or such officer of the State Government" shall be inserted ;

(b) in sub-section (3), after the words "the State Election Commissioner" the words "or an officer of the State Government appointed by the State Election Commissioner" shall be inserted.

5. Insertion of section 14A in Bom. LIX of 1949.—After section 14 of the Provincial Corporations Act, the following section shall be inserted, namely :—

"**14A. Power of State Election Commissioner to issue directions to prevent impersonation.**—The State Election Commissioner may, with a view to prevent impersonation of electors at the time of election, issue such directions, as he thinks fit to the presiding officers and such directions may include instructing the electors to produce, at the time of polling, the photo identity cards issued to them under the provisions of the Representation of the Peoples Act, 1951 (43 of 1951).".

CHAPTER IV

Amendment to City of Nagpur Corporation Act, 1948

6. Insertion of section 9C in C. P. and Berar II of 1950.—After section 9B of the City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950), the following section shall be inserted, namely :—

"**9C. Power of State Election Commissioner to issue directions to prevent impersonation.**—The State Election Commissioner may, with a view to prevent impersonation of electors at the time of election, issue such directions, as he thinks fit, to the presiding officers and such directions may include instructing the electors to produce, at the time of polling, the photo identity cards issued to them under the provisions of the Representation of the Peoples Act, 1951 (43 of 1951).

CHAPTER V

Amendment to the Maharashtra Municipal Council, Nagar Panchayats and Industrial Townships Act, 1965

7. **Insertion of 10AA in Mah. XL of 1965.**—After section 10A of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965) (hereinafter, in this Chapter, referred to as "the Municipal Councils Act"), the following section shall be inserted, namely :—

"10AA. **Power of State Election Commissioner to issue directions to prevent impersonation.**—The State Election Commissioner may with a view to prevent impersonation of electors at the time of election, issue such directions, as he thinks fit, to the presiding officers and such directions may include instructing the electors to produce, at the time of polling, the photo identity cards issued to them under the provisions of the Representation of the Peoples Act, 1951 (43 of 1951).".

8. **Amendment of section 11 of Mah. XL of 1965.**—In section 11 of the Municipal Councils Act, in sub-section (9) for the words "fifteen days" the words "eight days" shall be substituted.

9. **Amendment of section 11A of Mah. XL of 1965.**—In section 11A of the Municipal Councils Act, in sub-section (2), in clause (a), for the words "three weeks" the words "five days" shall be substituted.

10. **Amendment of rule 4 of Maharashtra Municipal Councils and Nagar Panchayats Election Rules, 1966.**—In rule 4 of the Maharashtra Municipal Councils and Nagar Panchayats Election Rules, 1966, in sub-rule (1), in clause (a), for the words "fifteen days" the words "eight days" shall be substituted.

11. **Repeal of Mah. Ord. XVII of 1994 and saving.**—(1) The Maharashtra Municipal Corporation and Municipal Councils, Nagar Panchayats and Industial Townships (Amendment) Ordinance, 1994 (Mah. Ord. XVIII of 1994), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Bombay Municipal Corporation Act (Bom. III of 1888), Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), the City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950), and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965), as amended by the said Ordinance, shall be deemed to have been done or taken, as the case may be, under the said Acts, as amended by this Act.

THE MAHARASHTRA (THIRD SUPPLEMENTARY) APPROPRIATION) ACT, 1994

The following Act of the Maharashtra Legislature having been assented to by the Governor on the 7th December, 1994, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 8th December, 1994.

MAHARASHTRA ACT NO. XLV OF 1994

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State for the services of the year ending on the thirty-first day of March, 1995.

Whereas by virtue of Article 204 of the Constitution of India, read with Article 203 thereof, it is necessary to provide for the passing of an

Appropriation Act for the appropriation of further sums from and out of the Consolidated Fund of the State for the services of the year ending on the thirty-first day of March, 1995 ; and for the purpose authorising payment of the said sums ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

1. Short title.—This Act may be called the Maharashtra (Third Supplementary) Appropriation Act, 1994.

(Text omitted).

THE MAHARASHTRA ZILLA PARISHADS AND PANCHAYAT SAMITIES (AMENDMENT) ACT, 1994

The following Act of the Maharashtra Legislature having been assented to by the Governor on 7th December, 1994, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 8th December, 1994.

MAHARASHTRA ACT NO. XLVI OF 1994

An Act further to amend the Maharashtra Zila Parishads and Panchayat Samitis Act, 1961.

Whereas both Houses of the State Legislature were not in session ;

And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962), for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Ordinance, 1994 (Mah. Ord. XII of 1994) on the 17th September, 1994.

And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature ; It is hereby enacted in the Forty-fifth year of the Republic of India as follows :—

1. Short title and commencement.—(1) The Act may be called the Maharashtra Zilla Parishads and Panchayat Samitis (Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 17th September, 1994.

2. Amendment of section 46-A of Mah. V of 1962.—In section 46-A of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 (Mah. V of 1962) (hereinafter referred to as "the principal Act"), for the words "two thousand rupees" the words "six thousand rupees" shall be substituted.

3. Insertion of section 46-B in Mah. V of 1962.—After section 46-A of the principal Act, the following section shall be inserted, namely :—

"46-B. Power to vary ceiling on sumptuary allowance.—Notwithstanding anything contained in section 46-A, or any rules made thereunder, the State Government may, by order made in this behalf, from time to time, vary the ceiling on sumptuary allowance payable per annum to the President.".

4. Amendment of section 49 of Mah. V of 1962.—In section 49 of the principal Act, to sub-section (1), the following proviso shall be added, namely :—

"Provided that, no such motion of no-confidence shall be brought within a period of one year from the date of the election of the President or the Vice-President, as the case may be.".

5. **Amendment of section 72 of Mah. V of 1962.**—In section 72 of the principal Act, to sub-section (1), the following proviso shall be added, namely:—

"Provided that, no such motion of no confidence shall be brought within a period of one year from the date of the election of the Chairman or the Deputy Chairman as the case may be, of a Panchayat Samiti.".

6. **Amendment of section 87 of Mah. V of 1962.**—To section 87 of the principal Act, the following proviso shall be added, namely :—

"Provided that, no such motion of no-confidence shall be brought within a period of one year from the date of the election of the Chairman of a Subjects Committee.".

7. **Repeal of Mah. Ord. XII of 1994 and saving.**—(1) The Maharaahtra Zilla Parishads and Panchayat Samitis (Amendment) Ordinance, 1994 (Mah. Ord. XII of 1994) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shallbe deemed to have been done or taken, as the case may be, under the principal Act, as amended by this Act.

THE MAHARASHTRA TAX ON LUXURIES (AMNNDMENT) ACT, 1994

The following Act of the Maharashtra Legislature having been assented to by the Governor on 7th December, 1994, was published in the Mahrashtra Government Gazette, Extraordinary, Part IV, dated 8th December, 1994.

MAHARASATRA ACT NO. XLVII OF 1994

An Act further to amend the Maharashtra Tax on Luxures Act, 1987.

Whereas it is expedient further to amend the Maharashtra Tav yn Luxuries Act, 1987, for the purposes hereinafter appearing ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

1r **Short title and commencement.**—(1) This Act may be called the Mahrashtra Tax on Luxuries (Amendment) Act. 1994.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. **Amendment of section 1 of Mah. XLI of 1987.**—In section 3 of the Maharashtra Tax on Luxuries Act, 1987 (Mah. XLI of 1987), in sub-section (2),—

(1) in clause (a). for the words "sixty rupees", the words "one hundred and twenty-five rupees" shall be substituted ;

(2) in clause (b), for the words "sixty rupees or more but does not exceed one hundred rupees", the words "one hundred and twety five rupees or more but does not exceed two hundred rupees" shall be substituted .

(3) in clause (c), for the words "one hundred rupees but does not exceed one hundred and fifty rupees", the words "two hundred rupees but does not exceed four hundred rupees" shall substituted ;

(d) in clause (d), for the words "one hundred and fifty rupees", the words "four hundred rupees" shall be substituted.

THE MAHARASHTRA HOUSING AND AREA DEVELOPMENT (THIRD AMENDMENT) ACT, 1994

The following Act of the Maharashtra Legislature having been assented

to by the Governor on the 7th December, 1994, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 8th December, 1994.

MAHARASHTRA ACT NO. XLVIII OF 1994

An Act further to amend the Maharashtra Housing and Area Development Act, 1976.

Whereas it is expedient further to amend the Maharashtra Housing and Area Development Act, 1976 (Mah XXVIII of 1977), for the purposes hereinafter appearing ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows ;—

1. **Short title.**—This Act may may be called the **Maharashtra Housing and Area Development (Third Amendment) Act, 1994.**

2. **Amendment of section 19 of Mah. XXVIII of 1977.**—In section 19 of the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977), in sub-section (5), after the words "Government may make", the words "with effect from such date as it may specify" shall be inserted.

THE BOMBAY ENTERTAINMENTS DUTY (AMENDMENT) ACT, 1994

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 12th December, 1994, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 14th December, 1994.

MAHARASHTRA ACT NO. XLIX OF 1994

An Act further to amend the Bombay Entertainments Duty, Act, 1923.

Whereas both Houses of the State Legislature were not in session ;

And whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Entertainments Duty Act. 1923 (Bom. I of 1923), for the purposes hereinafter appearing ; and, therefore, promulgated the Bombay Entertainments Duty (Amendment) Ordinance, 1994 (Mah. Ord. XIV of 1994), on the 26th September 1994 ;

And whereas it is expedient to replace the said Ordinance by an Act of the State Legislature with certain modifications ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the **Bombay Entertainments Duty (Amendment) Act, 1994**

(2) It shall be deemed to have come into force on the 16th September 1994.

2 **Amendment of section 2 of Bom. I of 1923.**—In section 2 of the Bombay Entertainments Duty Act, 1923 (Bom. I of 1923) (hereinafter referred to as "principal Act"),—

(1) in clause (a-1) after the words "or both" the words, "but excluding exhibition by cinematograph and video exhibition" shall be inserted ;

(2) in clause (a), after the words "in any manner whatsoever" the words "but does not include magic show" shall be inserted ;

(3) in clause (b),—

(a) in the second proviso,—

(i) for the words "fifty paise" the words "one rupee" shall be substituted ;

(ii) after the words "permanent cinema" the words "or quasi-permanent cinema" shall be inserted ;

(b) after the second proviso, the following proviso shall be added, namely :—

"Provided also that the proprietor shall submit, every year, to the prescribed officer as defined in the rules made under this Act, the accounts of service charges collected and spent by him towards maintenance and providing facilities and safety measures as referred to in the second proviso. If the prescribed officer on perusal of the accounts is satisfied that the service charges or part thereof is not spent for the purposes mentioned in the second proviso, then the service charges or part thereof, not so spent shall be included in the payment for admission ; and thereupon the provisions of sub-sections (2) to (5) of section 3B shall, mutatis mutandis, apply for the purpose of assessment of entertainment duty.".

8. **Amendment of section 3 of Bom. I of 1923.**—In section 3 of the principal Act,—

(1) in sub-section (1), in clause (b), for the existing proviso, the following provisos shall be substituted, namely :—

"Provided that, in the case of the cabaret or discotheque entertainment, fifty per cent of the total payment charged by the proprietor per person per show, whether with or without eatables or beverages and whether regular tickets are issued or not, for admission to such entertainment, shall be deemed to be the payment for admission and duty shall be levied thereon accordingly under this clause ;

Provided further that, the entertainment duty in respect of an amusement park shall be 15 per cent of the payment made for admission to the amusement park, including payment made for admission for games and rides, whether charges separately or not." ;

(2) in sub-section (3), to clause (b), the following Explanation shall be added, namely :—

"**Explanation.**—For the purposes of this clause, actual number of shows held by the proprietor in a week shall not include the shows of a tax free film held by him in the week." ;

(3) after sub-section (5), the following sub section shall be added, namely :—

"(6) Notwithstanding anything contained in clause (b) of sub-section (1) or any other provisions of this Act, for a period one year commencing from the 16th September 1994 and ending on the 15th September 1995, there shall be levied, and paid by the proprietor to the State Government, the entertainment duty in the case of every entertainment other than exhibition by cinematograph including video exhibition, video games and exhibition by means of any type of antenna or cable television,—

(I) within the limits of all Municipal Corporations, all 'A and 'B' Class Municipal Councils, and all Cantonment areas—

(a) out of the first 100 paise of payment for admission.	20 per cent of such payment.
(b) out of the next 100 paise of payment for admission.	30 per cent of such payment.

duce shall not for the purpose of this section, be deemed to be used solely for the purpose of agriculture.

5. Levy of Tax.—(1) Subject to other provisions of this Ordinance, on and from the date of commencement of this Ordinance, every owner of a registered motor vehicle shall pay tax on such vehicle at the rate specified in Schedule-I.

(2) Subject to other provisions of this Ordinance, on and from the date of commencement of this Ordinance, every owner of a registered motor vehicle shall pay additional Motor Vehicles Tax on such vehicle at the rate specified in Schedule-II.

(3) The State Government may by notification from time to time, increase the rate of tax specified in the schedules.

Provided that no such increase shall, during any year exceed fifty per cent of the rate of taxes prescribed in the schedules.

6. Tax payable by a manufacturer or a dealer.—A Tax at the annual rate specified in Schedule-III in lieu of the rates specified in Schedule-I shall be paid by a manufacturer of or a dealer in motor vehicles in respect of the motor vehicles in his possession in the course of his business as such manufacturer or dealer under the authorisation of trade certificate granted under the Central Motor Vehicles Rules, 1989.

7. Payment of Tax.- (1) On personalised vehicles, One-time tax for the whole life of the vehicle shall be levied at the time of registration at the rates specified in Schedule-I :

Provided that the personalised vehicle registered prior to February 1, 1992 for which One-time tax has not been paid, shall have to pay One-time tax at the rates prescribed in Schedule I within 30 days of the expiry of the existing tax teken otherwise an interest at the rate of two per cent per month shall be charged on the amount of tax due together with the arrears and penalty, if any, calculated upto 30th November, 1993 at the rate of annual tax leviable prior to 1st February, 1992.

(2) Where a One-time tax for any motor vehicle has been paid and the registration of the vehicle has been cancelled for any reason whatsoever or the vehicle has been removed to any place outside the State on account of transfer of ownership or change of address, a refund of the tax at the rates provided in schedule I, shall be payable on an application made within such period, and subject to such conditions as may be prescribed :

Provided that in case of removal of vehicle to any place out side the State on account of transfer of ownership or change of address, the refund of tax shall be considered only after receipt of proof of such transfer of ownership, or change of address ;

Provided further that where the rates of tax leviable under the Ordinance are revised by notification in the Official Gazette the State Government may, from time to time, by notification in the Official Gazette, correspondingly revise the rate of refund and the refund of tax, payable in respect of vehicles registered on or from the date of such notification shall be made at such revised rates.

(3) In case of vehicles other than personalised vehicles the tax may be paid for one or more quarterly periods at the annual rate of the tax payable for the quarter :

Provided that the tax paid for any period less than a quarterly period,

shall be 1/12th of the annual rate of tax for every month or part of a month comprising such period.

(4) In case of Motor Vehicles Act. 1988 the tax for vehicles other than personalised vehicles shall be levied at the rate of 1/12th of the tax payable for the year for such vehicles. In case of extension of the period of temporary registration under the proviso to Sub-section (2) of Section 43 tax at the rate of 1/12th payable for the year shall be payable on every extension of temporary registration for period of 30 days or part thereof :

Provided that for temporary registration of personalised Vehicles the rates of tax will be Rs. 50 for a Motor cycle (including moped, Scooter and Cycle with attachment for propelling the same by mechanical power) and Rs. 100/for a motor car.

(5) Notwithstanding anything contained in the section, the Government may, by notification, from time to time, direct that a temporary tax token may be issued in respect of a transport vehicle registered in other State plying temporarily in the State on payment of such tax and subject to such conditions as may be specified in the said notification :

Provided that quarterly tax shall not be collected in respect of transport vehicles coming from other State intending to ply temporarily in the State and in any condition the following rate of tax shall not exceed.

(a) In case where the tax token relates to a period not exceeding seven days an amount equal to twenty percent of the tax payable for quarter in respect of the vehicle registered in the State.

(b) In case where the tax token relates to a period not exceeding fourteen days an amount equal to thiry percent of the tax payable for quarter in respect of the vehicle registered in the State.

(c) In case where the tax token relates to a period exceeding fourteen days but not exceeding thirty days, an amount equal to forty-five per cent of the tax payable for a quarter in respect of the vehicle registered in the State; and

(d) In case where the tax token relates to a period exceeding thirty days at a time, an amount equal to the aggregate forty-five per cent of the tax payable for a quarter for the first thirty days in respect of the vehicle registered in the State and thirty percent of such tax for very period of fourteen days or part thereof in excess of thirry days.

(6) At the time of making payment of any period under sub-section (1), (2) or (3)—

(a) a valid certificate of registration and a valid certificate of insurance in respect of the motor vehicle complying with the provisions of the Motor Vehicles Act, 1988 shall be produced before the taxing officer ; and

(b) It shall be furnished to the taxing officer with a declaration in duplicate in the prescribed from with the prescribed particulars specifying the taxing officer from whom the tax token if any, had been last obtained and showing that the tax payable against the vehicle has actually been paid.

8. **Payment of differential tax.**—(1) When a motor vehicle, in respect of which tax for any period has been paid, is altered during such period or is proposed to be used during such period in such a manner in respect of which a higher rate of tax is payable, the owner of the vehicle, shall pay to the taxing officer a differential tax of a sum which is equal to the difference between the tax already paid and the tax which becomes payable in respect

of such vehicle for the period for which the higher rate of tax is payable in consequence of the alteration or the proposed use as the case may be

(2) Payment of differential tax under sub-section (1) shall be made within such time and in such manner as may be prescribed.

Explanation I.—In determining the differential tax any broken period in a month shall be reckoned as a full month.

Explanation II— A Motor vehicle shall be deemed to have been altered if there is a change in the manner of its actual use irrespective of the facts to whether such alteration has not been taken notice of by the Registering authority under section 52 of the Motor Vehicles Act, 1988.

9. Tax where to be paid.— (1) For newly registered vehicles, the tax shall be paid to the taxing officer in whose jurisdiction the place of registration falls.

(2) For the vehicles which are already registered on or before the date of commencement of this ordinance, the tax shall be continued to be paid to the taxing officer to whom the tax was last paid just before the commencement of this ordinance.

(3) If an owner of a vehicle other than a personalised vehicle changes his place of business or residence and his new place of residence or business falls within the jurisdiction of an other taxing officer, he can (a) either continue to pay the tax at the place where he previously paid tax or (b) start the payment of the tax to the other taxing officer in whose jurisdiction his new residence or place of business falls ;

Provided that the new taxing officer shall not accept the payment of tax till the owner presents before him a No Objection Certificate from the previous taxing officer in the manner and the form prescribed,

10. Rebate on payment of tax paid in advance.—A rebate of 5% on the annual tax payable in respect of transport vehicles shall be allowed if such annual tax is paid in advance.

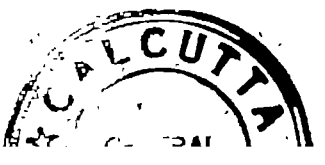
11. Grant of tax token and receipt of payment of tax.—(1) The taxing officer shall grant a receipt and a tax taken in the prescribed form in the prescribed manner to every person who pays motor vehicle tax or additional motor vehicles tax under section 7 or differential tax under section 8 in respect of any motor vehicle.

(2) The taxing officer shall endorse the particulars of tax paid in the certificate of registration granted in respect of the vehicle under the Motor Vehicles Act, 1988.

12. Refusal of acceptance of tax.—Subject to other provisions of this ordinance, the taxing officer shall not accept the tax or penalty if any, in respect of a motor vehicle for the current period unless the arrears of taxes and penalties due in respect of the vehicle have been fully paid or settled.

13. Liability of successors to pay arrears.—(1) If the tax payable in respect of any motor vehicle remains unpaid by any person liable for payment thereof and such person before having paid the tax has transferred the ownership of such vehicle or has ceased to be in possession or control of such vehicle, the person to whom the ownership of the vehicle has been transferred or the person who has come in possession or control of such vehicle shall be liable to pay the said tax ;

(2) Nothing contained in this section shall be deemed to affect the liability of the person who has transferred the ownership or has ceased to



be in possession or control of such vehicle, for payment of the said tax.

14. Transport vehicles registered outside Bihar not to be used or kept for use unless tax paid.—Notwithstanding anything contained in Section 7, no Transport Vehicle under a permit granted by a competent Transport authority of any other state under the provisions of Motor Vehicles Act, 1988 (Act No. 59 of 1988) shall be used or kept for use in Bihar unless there has been paid in respect thereof, tax calculated at the appropriate rate specified under sub-section (5) of section 7 ;

Provided that motor vehicles plying in Bihar, under permits granted by appropriate Transport Authorities of such States as have agreed on reciprocal basis to exempt motor vehicles plying in those State under permit granted by competent Transport Authorities of this State, shall not be required to pay any tax under this section other than the additional motor vehicles tax :

Provided further that the permit holders opting for the State of Bihar under the National permit scheme, granted by a competent transport authority of other State under sub-section (12) of Section 88 of the Motor Vehicles Act, 1988 shall be required to pay in respect thereof a sum to be fixed by the State Government as composite fee in lieu of the tax and additional tax on an annual basis in advance by bank draft or by other means prescribed to the officer authorised by such State Government in this behalf.

15. Power of the State Government to exempt certain motor vehicles from payment of the tax.—The State Government may by notification make an exemption, reduction in the rate or other modification in regard to the tax payable in respect of any motor vehicle or class of motor vehicles.

16. Grant of exemption token.—The taxing officer shall, in respect of motor vehicles which have been exempted from payment of tax under section 15, grant an exemption token in the prescribed form.

17. Prior intimation of temporary discontinuance of use of a vehicle.—(1) Whenever any motor vehicle becomes incapable of use due to disability caused by mechanical breakdown or litigation or due to other causes prescribed by State Government for any period more than a month, the owner shall, on or before the date of expiry of the term for which the tax has been paid, furnish to the taxing office an undertaking duly signed and verified in the prescribed form and specifying the period aforesaid and the place where the motor vehicle is to be kept along with the current registration certificate, fitness certificate, and tax token, and such other particular as may be prescribed and shall form time to time by furnishing, further undertaking give prior intimation to the concerned taxing officer of the extension if any, of the said period and the changes, if any of the place where the motor vehicle shall be kept. The owner shall also surrender the permit of the vehicle to the Transport Authority which has granted permit to it with intimation to the taxing officer ;

Provided that no such undertaking shall relate to a period exceeding six months at a time.

(2) If at any time during the period covered by an undertaking as aforesaid the motor vehicle is found being used or is kept at place in contravention of any such undertaking such vehicle shall for the purpose of this ordinance, be deemed to have been used through the said period without

payment of tax.

(3) In the absence of any undertaking delivered under sub-section (1) every motor vehicle liable to pay tax under this ordinance shall be deemed to have been used or kept for use within the State.

18. Refund of tax.—(1) When any person has paid tax in respect of a motor vehicle, he shall be entitled to a refund in the following circumstances,—

(a) Where an undertaking has been delivered under sub-section (1) of section 17 in respect of such motor vehicle, which has not, in the opinion of taxing officer after due enquiry as prescribed, been found to be false, by the time the application for a refund is made, and the period specified in the said undertaking comprises any period for which tax has been paid in respect of such vehicle for each calender month of the period for tax has been paid and which remained unexpired on the date of delivery of the said undertaking of an amount equal to one-twelfth of the annual tax payable on such vehicle.

(b) Where excess tax has been paid for any period due to over-assessment made by the taxing officer or otherwise, the amount paid in excess of the amount payable, and

(c) Where, after payment of tax in respect of vehicle, it is found that the vehicle is not subject to tax, the tax so paid ;

Provided that no such refund shall be made unless the person claiming the refund has made an application in that behalf to the concerned taxing officer within one year from the date on which the refund became due and every such refund shall be subject to such conditions as may be prescribed ;

Provided further that the taxing officer will be competent to sanction such refunds upto a limit prescribed and in case of excess amount refer the matter to the State Transport Commissioner or to any officer authorised by the State Government.

(2) Any amount due to be refunded under clause (a) or clause (b) of sub-section (1) may, at the option of the applicant be adjusted towards the tax due for any subsequent period :

Provided that, if any, tax or penalty due from the applicant in respect of any previous period remains outstanding, the amount to be refunded shall be adjusted first towards the outstanding dues and the balance, if any, shall be refunded.

19. Exemption and right off taxes.—If an undertaking has been delivered under sub-section (1) of section 17 in respect of a Motor Vehicle and the period specified in the said undertaking comprises of any period for which tax has not been paid, the owner of a vehicle shall file an application along with the necessary papers before the taxing officer on or before the date the tax was last paid, and the taxing officer shall continue his enquiry as prescribed and if the undertaking has not been found false till the expiry of period for which exemption of payment for tax is claimed, he shall after being satisfied dispose of the claim in the prescribed manner :

Provided that the taxing officer shall be competent to write off the arrears of the tax upto a maximum amount which may be prescribed by the State Government in case the arrears exceed the prescribed amount he may refer the matter along with necessary records, to the State Transport Commissioner or to any officer authorised by the State Government.

20. Display of tax token.—No motor vehicle shall be used or kept for use within the state unless the valid tax token issued under section 11 in respect of the said vehicle has been obtained and such token is displayed on the vehicle in the prescribed manner.

21. Recovery of tax, penalty or fine as arrears of land revenue.—Any tax, penalty or fine may be recovered in the same manner as arrears of land revenue. The motor vehicle in respect of which the tax, penalty or fine is due, the Motor vehicle or its accessories may be attached or sold whether or not such motor vehicle or accessories are in possession or control of the person liable to pay the tax, penalty or fine.

22. Search and Seizure.– (1) Any taxing officer, any officer of the Motor Vehicles Department not below the rank of Inspector of Motor Vehicle or any other officer specially authorised by the State Transport Commissioner in this behalf may—

(a) enter at any time between sunrise and sunset any building or premises where he has reason to believe that a motor vehicle is kept ; or

(b) require the driver of any motor vehicle in any public place to stop such vehicle and cause it to remain stationary so long as may reasonably be necessary for the purpose of satisfying himself that the amount of tax in respect of such vehicles has been paid and the tax token has been obtained.

(2) If the tax or penalty or both tax and penalty has not been paid in accordance with the provision of this ordinance the officer may, while proceeding under Sub-Section (1) seize the motor vehicles and detain it till the tax is paid and on such seizure the said officer shall take such step as he may consider proper for the temporary safe custody of the vehicle, and the owner, the person in-charge or the driver thereof shall be bound to comply with the order and directions as the said officer may in respect of the movement of such vehicle, issue for giving effect to such seizure :

Provided that no such seizure shall be made and no such vehicle shall be retained in custody except in such manner and under such circumstances and subject to such conditions as may be prescribed by the State Government having regard to the reasonable convenience and facility of, transport of the passengers and goods, if any.

23. Liability to pay penalty for non-payment of tax in time.—If the tax payable in respect of a vehicle other than personalised vehicle has not been paid during prescribed period, the person liable to pay such tax shall pay, together with the arrears of tax, a penalty at the rates prescribed by the state Government.

24. Restriction on use of motor vehicle in certain cases.—Any person liable to pay tax under the ordinance shall not use or allow the use of any motor vehicle where he has reason to believe that the tax token, tax receipt or permit have been forged, tempered or fraudulently obtained.

25. Permits to be invalid in case of non payment of tax within the prescribed period.—Notwithstanding anything contained in Motor Vehicles Act, 1988 (Act 59 of 1988) if the tax due in respect of a transport vehicle is not paid within the prescribed period, the permit shall be invalid from the date of expiry of the prescribed period till the tax is actually paid.

26, Appeal.—(1) An person aggrieved by any order or direction of the Taxing Officer or by seizure under sub-section 2 of section 22 may, within the prescribed time and in the prescribed manner, prefer an appeal to

the prescribed authority on payment of such fees, as may be prescribed.

(2) Every appeal shall be heard and disposed of in the prescribed manner.

(3) Every decision on such appeal shall, subject to provisions of Section 27, shall be final and shall not be called in question in any court of law.

(4) The Appellate authority may on his own motion call for the record of any case in which an order has been passed or a direction has been given by the Taxing Officer, or which relates to seizure or release of the vehicle under section 22 and may pass such order in relation to the case as it deems fit, if it finds that the order in question was without jurisdiction or illegal.

27 Revision.—Any person aggrieved by any order of the Appellate authority passed under section 26 may, within prescribed time from the date of order in the prescribed manner on payment of prescribed fees apply to the prescribed authority praying for a revision of such order on the ground that the decision is not in conformity with law and the said Revisional Authority may pass such order as it may deem fit :

Provided that the Revisional Authority shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

28 Penalties.—(1) (a) Whoever uses a motor vehicle or keeps a motor vehicle for use without having paid tax or additional tax or differential tax in respect of such vehicle shall be punished with fine, not exceeding in the case of the first offence twice and in the case of a second or any subsequent offence three times the amount of annual tax payable for the motor vehicle in respect of which offence is committed.

(b) Whoever intentionally delivers in respect of a motor vehicle any declaration or undertaking wherein the particulars required by or under this ordinance, is falsely given or incorrectly stated, shall, on conviction be punished with fine not exceeding for the first offence, twice and for every subsequent offence three times the amount of annual tax payable for the vehicle in respect of which the offence is committed.

(2) Whoever not being a person liable to pay tax drives a motor vehicle knowing or having reasons to believe that the tax payable in respect of such vehicles has not been paid shall, on coviction, be punished for the first offence with fine which may extend to Rs. 300 and for every subsequent offence with fine which may extend to Rs. 500

(3) Any person who fails to exhibit the tax token in the manner prescribed under section 20 shall be punished with a fine which may extend to Rs. 500

(4) Any person who has claimed refund or exemption of tax on undertaking given under section 17 or 18 which is found to be misrepresentation of facts or fraud, shall, on conviction be punished for the first offence with a fine which may extend to the amount claimed for refund or exemption and for every subsequent offence of four times the amount claimed for refund or exemption.

(5) Any person who contravence the provisions of section 24 shall, be liable for punishment of a simple imprisonment which may extend to six months or to fine which may extend to Rs. 1000 or with both and the vehicle shall also be forfeited to the State Government.

(6) Whoever contravence any of the provisions of this ordinance or the Rules made hereunder shall, if no specific penalty has been prescribed for the offence in the preceeding sub-sections, be punished with fine which may extend upto Rs. 500 and in the event of such person having been previously convicted of any offence under this ordinance or in the Rules made thereunder, with a fine which may extend upto Rs. 1000.

29. Compounding of offence.—Where any person is accused of an offence under section 28 except of an offence under sub-section (5) of Section 29 it shall be lawful for him to pay to the prescribed officer by way of compounding for such offence, a sum of money as may be prescribed together with the amount of tax and penalty, if any, which may be due from him and such compounding shall have the effect of an acquittal and no further proceedings shall be taken against such person in respect of such offence.

30. Bar of Jurisdiction.—The liability of a person to pay the tax shall not be questioned or determined in any manner by any authority other than that as provided in this ordinance or in the Rules made thereunder and no prosecution, suit or other proceeding shall lie against any officer of Government for any thing done or intended to be done in good faith under this ordinance.

31. Power to make rules.—(1) The State Government may subject to the condition of previous publication, make rules for the purpose of carrying into effect the provisions of this ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters, namely :—

(i) To prescribe the the form of any declaration, certificate and particulars to be stated therein.

(ii) To prescribe the form of undertaking to be delivered under section 17 and particulars to be stated therein, papers and documents to be appended thereto and time within which such undertaking shall be delivered.

(iii) To prescribe the form of tax token for personalised vehicles and other vehicles and exemption token and the manner in which those tokens shall be displayed on motor vehicles.

(iv) To prescribe the quarterly period, for the purpose of section 7.

(v) To prescride the powers and duties of the taxing officers.

(vi) To regulate the manner in which refund or deduction or exemptions may be claimed and the manner of disposal of those claims.

(vii) To regulate the seizure, detention, auction and sale and release of motor vehicles under sections 21 and 22.

(viii) To prescribe the manner, the time limit and the fees payable for preferring an appeal or revision and the hearing and disposal thereof.

(ix) The issue of duplicate tax token and of certified copies of the record of the taxing officer and the fee chargeable thereof.

(x) To prescribe the manner in accordance with which the taxing officer may dispose of the matters before him.

(xi) The forms of "No objection Certificate" under section 9 and the the manner in which such certificate shall be issued.

(xii) Any matter which is to be or may be prescribed.

(3) Every such rule made shall be laid as soon as may be after it is made, before each house of the State Legislature while it is in session for a

roster for reservation by rotation shall continue for every three successive terms for the complete rotation unless the State Election Commissioner, for reasons to be recorded in writing and by notification, directs fresh commencement of the rotation at any stage excluding one or more terms from the operation of the rotation ;

Provided also that no member of the Scheduled Castes or the Scheduled Tribes and no woman, for whom the offices are reserved under this sub-section, shall, if eligible for the office of the Sabhadhipati or the Sahakari Sabhadhipati, be disqualified for election to any office not so reserved :

Provided also that the provisions for reservation of the offices of the Sabhadhipati and the Sahakari Sabhadhipati for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India. ';

(2) in sub-section (3), the proviso shall be omitted ;

(3) in sub-section (6), after the words "the prescribed authority may appoint", the words "for a period of thirty days at a time" shall be inserted.

40. **Amendment of section 146.**—In Section 146 of the principal Act,—

(a) for the words "A Sabhadhipati or a Sahakari Sabhadipati", the words "Subject to the other provisions of this section, a Sabhadhipati or a Sahakari Sabhadhipati" shall be substituted ;

(b) for the words "by a resolution of the Zilla Parishad carried by the majority of the existing members of the Zilla Parishad", the words, figures and brackets "by a resolution carried by the majority of the existing members referred to in clause (ii) of sub-section (2) of Section 140" shall be substituted ;

(c) after the proviso, the following provisos shall be inserted :—

"Provided further that no meeting for the removal of the Sabhadhipati or the Sahakari Sabhadhipati under this section shall be convened within a period of one year from the date of election of the Sabhadhipati or the Sahakari Sabhadhipati ;

Provided also that there shall not be more than one resolution for the removal of the Sabhadhipati or the Sahakari Sabhadhipati within a period of six moths.".

41. **Amendment of Section 153.**—In Section 153 of the principal Act, in sub-section (1),—

(1) for the words "subject to any general or special directions of the State Government, a Zilla Parishad shall have power to—", the following words, figures and brackets shall be substituted :—

"A Zilla Parishad shall function as a unit of self-Government and, in order to achieve economic development and secure social justice for all, shall prepare—

(i) a development plan for the five-year term of the office of the members, and

(ii) an annual plan for each year by the month of January of the preceding year,

in furtherance of its objective of development of the community as a whole and socio-economic upliftment of the individual members of the community and, without prejudice to the generality of the above pro-

visions, shall have power to—" ;

(2) in clause (a), for sub-clause (i), the following sub-clause shall be substituted :—

"(i) undertake schemes or adopt measures, including the giving of financial assistance, relating to the development of agriculture, fisheries, live-stock, khadi, cottage and small-scale industries, co-operative movement, rural credit, water-supply, irrigation and minor irrigation including water management and watershed development, public health and sanitation including establishment, and maintenance of dispensaries and hospitals, communication, primary and secondary education, adult and non-formal education, physical education and games and sports, welfare of students, social forestry and farm forestry including fuel and fooder, rural electrification including distribution, non-conventional energy sources, women and child development, social welfare and other objects of general public utility,";

(3) clause (f) shall be omitted.

42. **Amendment of Section 182A.**—In Section 182A of the principal Act, the words, "with the previous sanction of the State Government", shall be omitted.

43. **Amendment of Section 183.**—In Section 183 of the principal Act,—

(1) in sub-section (1), the words "and submit it to the State Government" shall be omitted ;

(2) for sub-section (2), the following sub-section shall be substituted :—

"(2)(a) The budget prepared under sub section (1) shall be written in English and in vernacular of the district and copies of the budget in both the languages shall be pasted in such prominent places within the district as may be prescribed, inviting objections and suggestions from the electors of the Zilla Parishad.

(b) Copies of the budget shall be forwarded to the State Government for views, if any.

(c) The Zilla Parishad shall, within such time as may be prescribed and in a meeting specially convened for the purpose and in the presence of at least half of the existing members, consider the objections, suggestions and views, if any, and approve the budget with modifications, if, any,

(d) A copy of the budget approved under clause (c) shall be forwarded to the State Government.

(3) in sub-section (3), for the words "by the State Government.", the words, letter, figure and brackets "under clause (c) of sub-section (2)" shall be substituted.

44. **Amendment of Section 184.**—Section 184 of the principal Act, shall be renumbered as sub-section (1) of that section and—

(1) in sub-section (1) as so renumbered, for the words "may submit it to the State Government for approval", the words "may approve it in a meeting especially convened for the purpose and and in the presence of at least half the existing members" shall be substituted ;

(2) after sub-section (1) as so renumbered, the following sub-section shall be inserted :—

"(2) A copy of the supplementary estimate as approved under sub-section (1) shall be forwarded to the State Government."

45. **Amendment of Section 185B.**—In Section 185B of the principal Act,—

(1) in sub-section (3),—

(a) in clause (ii),—

(i) for the words "of the West Bengal Legislative Assembly in force on the last date of nomination for Panchayat election", the words "prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election," shall be substituted ;

(ii) after the provisos, the following provisos shall be inserted :—

"Provided also that such division into constituencies shall be made in such manner that the ratio between the population of all the Blocks in the Mahakuma Parishad and the number of constituencies in the Mahakuma Parishad shall, so far as practicable, be the same as in any Zilla Parishad :

Provided also that the State Election Commissioner may, at any time, for reasons to be recorded in writing and by notification, order fresh determination of the number of members in the Mahakuma Parishad or fresh reservation on rotation of the number of constituencies in the Mahakuma Parishad and, on such order being issued by the State Election Commissioner, the determination of the number of members and the reservation of the number of constituencies shall not be varied for three successive general elections ;

Provided also that the provisions for reservation of seats for the Scheduled Castes and Scheduled Tribes shall cease to have effect on the expiry of the period specified in article 334 of the Constitution of India " ;

(b) in clause (iv), for the words "having a place of residence" the words "registered as electors within the area of any Block" shall be substituted ;

(2) in sub-section (7), in clause (c),—

(a) in sub-section (i), after the word "Sabhadhipati", the words "and the Sahakari Sabhadipati" shall be inserted :

(b) for sub-clause (ii), the following sub-clause shall be substituted ;—

"(iii) such number of persons, being Officers of the State Government or of any statutory body or corporation or being eminent persons having specified knowledge, as the State Government may think fit, appointed by the Government :".

46. **Amendment of Section 197A.**—In Section 197A of the principal Act, in clause (a), the words and figures "other than the member appointed under Section 210," shall be omitted.

47. **Amendment of Section 202.**—To Section 202 of the principal Act, the following proviso shall be added :—

"Provided that no person shall be entitled to stand as a candidate for election from more than one constituency or seat, as the case may be, in a general election.".

48. **Amendment of Section 203.**—In section 203 of the principal Act,—

(1) for sub-section (1), the following sub-section shall be substituted :—

"(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats under this Act and the rules made thereunder shall be in accordance with such law, vesting such superintendence, direction and control in a State

Election Commission consisting of a State Election Commission as may be made by the State Legislature in this behalf or as may be in force for the time being." ;

(2) in sub-section (2),—

(a) for the words "by the State Government", the words "by the State Election Commissioner in consultation with the State Government" shall be substituted ;

(b) for the words "State Panchayat Election Officer,", the words "State Election Commissioner," shall be substituted ;

(c) for the words "the conduct of such elections", the words "the preparation of electoral rolls for, and the conduct of, such election," shall be substituted ;

(3) for sub-section (3), the following sub-section shall be substituted :—

"(3) The State Election Commissioner shall, in consultation with the State Government and by notification, appoint, from among the officers of the State Government, a Panchayat Electoral Registration Officer for one or more Blocks for preparation of electoral rolls, and a Panchayat Returning Officer for one or more Panchayats, for holding the elections.";

(4) for sub-section (4), the following sub-section shall be substituted :—

"(4) The District Panchayat Election Officer shall, subject to the direction and control of the Election Commissioner, appoint, from among the officers of the State Government, as many Assistant Panchayat Electoral Registration Officers and Assistant Panchayat Returning Officers as may be necessary for exercising such powers and performing such functions as may be prescribed.".

(5) in sub-section (5),—

(a) for the words "Returning Officer", the words "Panchayat Returning Officer" shall be substituted,

(b) for the words "election or bye-election", the word "elections" shall be substituted, and

(c) the following proviso shall be added at the end :—

"Provided that if the State Election Commissioner is satisfied that the counting of votes cannot conveniently be done at any or all of the polling stations immediately after the close of the poll, he may, in consultation with the State Government, require, by order, the used and sealed ballot boxes of such polling station or polling stations to be transported to such place, for safe custody till counting, and for counting, subject to such procedure, as may be prescribed." ;

(6) in sub-section (6), for the words "Returning Officer,", the words "Panchayat Electoral Registration Officers, Panchayat Returning Officers," shall be substituted ;

(7) in sub-section (8), the first proviso shall be omitted.

49. Amendment of Section 206A.—In Section 206A of the principal Act,—

(1) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) As soon as may be after the commencement of the West Bengal Panchayat (Amendment) Act, 1994, and thereafter at the expiry of every five years, there shall be a Finance Commission constituted by the Governor, by

notification, under clause (1) of article 243-I of the Constitution of India which shall consist of not more than five members including the Chairman, selected from amongst the jurists, economists, administrators and social and political workers of eminence." ;

(2) in sub-section (2),—

(a) in clause (a),—

(i) in sub-clause (i),—

(1) for the words "Gram Panchayats, Panchayat Samities, and Zilla Parishads", the word "Panchayats" shall be substituted, and

(2) for the words "Gram Panchayats, Panchayat Samities, and Zilla Parishads", the word "Panchayat" shall be substituted

(ii) in sub-clause (ii), the words "Gram Panchayats, Panchayat Samities and Zilla Parishads", the word "Panchayats ;" shall be substituted ;

(iii) in sub-clause (iii), for the words "Gram Panchayats, Panchayat Samities and Zilla Parishads,", the word "Panchayats," shall be substituted ;

(b in clause (b), –

(i) for the words "State Government", the word "Governor" shall be substituted, and

(ii) for the words "Gram Panchayats, Panchayat Samities, and Zilla Parishads,", the words "Panchayats" shall be substituted ;

(3) in sub-section (3), for the words "the term of office may be extended for six months by the State Government by notification", the words "the term of office may be extended for six months at a time by the State Government by notification, and they shall be paid such fees and allowances as the State Government may, by order, determine" shall be substituted ;

(4) for sub-section (5), the following sub-section shall be substituted : –

"(5) The Finance Commission shall, in the performance of its functions, determine its own procedure, and exercise such powers, summon such persons and examine such records as may be prescribed." ;

(5) for sub-section (6), the following sub-section shall be substituted :—

"(6) The Governor, on receipt of the recommendations of the Finance Commission, shall take such actions as may be considered necessary, and the recommendations of the Finance Commission together with an explanatory memorandum of actions taken thereon, shall be laid for not less than fourteen days before the State Legislature as soon as possible after such recommendations are received and shall be accepted with such modifications as the State Legislature may make during the session in which they are so laid.".

50. **Insertion of new Section 207B.**—After Section 207A of the principal Act, the following section shall be inserted :—

"207B. **Transfer of powers, functions and duties.**—(1) Without prejudice to the generality of the provisions contained in Section 207 or elsewhere in this Act, the State Government may, by order published in the Official Gazette, transfer, under such terms and conditions as may be specified in the order, to a Panchayat such powers, functions and duties as are exercised, performed and discharged by the State Government under any law made by the State Legislature or otherwise under the executive power of the State in relation to any or all of the following matters :—

(i) agriculture including agriculture extension, agricultural marketing and food processing ;

(ii) irrigation, minor irrigation and water management ;

(iii) animal resources development ;
(iv) heath and family welfare ;
(v) public health engineering and rural water supply ;
(vi) social welfare, women and child development, welfare of handicapped, mentally retarded and weaker sections of people ;
(vii) land and land reforms, land improvement and soil conservation ;
(viii) co-operation ;
(ix) khadi, and cottage and small scale industries ;
(x) rural housing ;
(xi) public works and communications ;
(xii) education including primary and secondary schools, technical training, vocational education, libraries and cultural activities ;
(xiii) fisheries ;
(xiv) social forestry, farm forestry and minor forest-procedure ;
(xv) rural electrification including distribution of power and non-conventional energy sources ;
(xvi) poverty alleviation programme ;
(xvii) public distribution system.

(2) Upon the transfer of any powers, functions or duties under sub-section (1), the State Government shall allot to the Panchayat such fund and personnel as may be necessary to enable that Panchayat to exercise the powers, perform the functions or discharge the duties so transferred.

(3) Where any powers, functions or duties conferred by or under any other law for the time being in force, are transferred or delegated to a Panchayat, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.".

52. **Insertion of new Sections 213A and 213B** — After Section 213 of the principal Act, the following sections shall be inserted : -

"213A. **Disqualification on change of political party by Members of Panchayats.**— (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such Panchayat as may be specified by notification in this behalf, may, subject to the other provisions of this section, declare, for reasons to be recorded in writing, a member of such Panchayat to be disdisqualified for being a member thereof, if—

(a) he is an elected member set up by a recognised political party and has—

(i) voluntarily given up his membership of such recognised political party, or

(ii) exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party in such Panchayat ; or

(b) he is an elected member not set up by any recognised political party and he has joined a recognised political party on the expiry of six months from the date of election :

Provided that the prescribed authority shall not declare any member to be disqualified under this section without giving to such member a reasonable opportunity to represent his case and to be heard in person :

Provided further that an elected member referred to in sub-clause (ii)

of clause (a) shall not, on the prescribed authority being satisfied in this behalf, be declared to be disqualified, if—

(a) the action of such member was taken on obtaining prior permission of, or was condoned by, such recognised political party, or

(b) such member claims that he and any other members of such recognised political party in the Panchayat constitute a group representing a faction consisting of not less than one-third of the total number of members set up by such recognised political party in the Panchayat and that all the members of such group have voluntarily given up their membership of such recognised political party, or

(c) the former recognised political party of the member merges with another recognised political party, and he claims that he and other members of his former recognised political party, or

(i) have become members of such other recognised political party or of a new recognised political party formed out of merger, as the case may be, or

(ii) have not accepted the merger, and from the time of such merger, he and such other members constituting not less than one-third of the total number of members set up by the former recognised political party in the Panchayat, have opted to remain members of the former recognised political party or have formed a new recognised political party.

(2) On being declared to be disqualified under sub-section (1), a member shall, subject to the provisions of sub-section (12), stand removed from the Panchayat from the date of such declaration.

( ) As soon as may be within one month from the date of the first meeting of a Panchayat or, within one month from the date on which this section comes into force, as the case may be, elected members set up by the recognised political parties shall, by adopting a resolution, select one member from amongst themselves to be the Leader and such Leader shall, within fifteen days from the date of such selection, furnish to the prescribed authority referred to in sub-section (1)—

(i) a copy of the resolution,

(ii) a signed statement containing the names, addresses and constituencies of himself and other members set up by such recognised political party, and

(iii) a copy of a set of rules and regulations, if any, by whatever name called, of such recognised political party :

Provided that an office-bearer may also hold the office of the Leader.

(4) Where there is only one elected member set up by a recognised political party in Panchayat, he shall furnish the documents referred to in sub-section (3) in relation to himself :

Provided that in the event of any increase in the number of members of such recognised political party, the provisions of sub-section (3) shall apply as if the first meeting of the Panchayat was held or this section came into force, as the case may be, on the date on which such increase took place.

(5) A member not belonging to any recognised political party shall furnish a statement to that effect to the prescribed authority referred to in sub-section (1) within one month from the date of the first meeting of the Panchayat.

(6) In the event of any change of the information furnished under sub-section (3), sub-section (4) or sub-section (5), the Leader or the member, as the case may be, shall, as soon as may be within fifteen days from the date of such change, furnish in writing such change of information to the prescribed authority referred to in sub-section (1).

(7) The Leader of any recognised political party referred to in sub-section (3) may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, the Secretary, of the district unit of such recognised political party to the prescribed authority referred to in sub-section (1), stating that—

(a) one or more members of such recognised political party have –

(i) voluntarily given up his or their membership of such recognised political party, or

(ii) have exercised the voting rights contrary to the manner of voting of the majority members set up by such recognised political party in the Panchayat, or

(b) the member referred to in sub-section (4) has voluntarily given up his membership of the recognised political party that set him up, or

(c) the member referred to in sub-section (5) has joined a recognised political party on the expiry of six months from the date of election,

and that such member or members should be declared to be disqualified under sub-section (1) and should be removed from the Panchayat.

(8) Every petition referred to in sub-section (7) –

(a) shall contain a concise statement of the material facts on which the petitioner relies, and

(b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and, where the petitioner or any information furnished to him by any person or persons, a statement containing the names and addresses of such person or persons and the gist of of such information as furnished by such person or each of such persons.

(9) On receipt of the petition referred to in sub-section (7), the prescribed authority referred to in sub-section (1) shall, as soon as possible within six weeks from the date of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as to—

(b) the common decision in regard to the manner of voting to be exercised by the majority members set up by the recognised political party, and

(b) whether the member or members against whom such petition is filed, exercised the voting right, in a meeting of the Panchayat contrary to such manner of voting.

(10) For the purpose of enquiry under sub-section (9), the prescribed authority may summon such members of the recognised political party or other persons, and require such signed statements from, and production of such documents and records by, the members of other persons as aforesaid, as he may deem necessary.

(11) As soon as possible within eight weeks from the date of receipt of the petition referred to in sub-section (7), the prescribed authority shall, in consideration of the facts and the documents and the records before it,—

(a) reject the petition, or

(b) admit the petition wholly or in part and declare any member or

members to be disqualified under sub-section (1) for being members of the Panchayat.

(12) Any member of a Panchayat declared disqualified under sub-section (1) or the Leader of the recognised political party referred to in sub-section (7), if aggrieved by the decision of the prescribed authority, may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, set aside or confirm the order or declare under sub-section (1) any member or members to be disqualified for being member or members of the Panchayat.

(13) The order passed by the authority appointed under sub-section (12) on the appeal shall be final.

(14) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no court shall have any jurisdiction in respect of any matter arising out of a member being declared to be disqualified under sub-section (1) for being a member of the Panchayat.

(15) The State Government may, by notification, make rules for carrying out the purposes of this section.

Explanation.—For the purposes of this section, an elected member shall be deemed to be set up by a recognised political party if he has contested election with the symbol reserved for such recognised political party or if has contested election with a free symbol and joins a recognised political party and furnishes a declaration to that effect to the prescribed authority referred to in sub-section (1) before the expiry of six months from the date of election.

213B. **Suspension of Members of Panchayats.**—Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the prescribed authority for such Panchayat as may be specified by notification, may after giving an office bearer or member of such Panchayat an opportunity to show cause against such action may be proposed to be taken against him, place such office bearer or member under suspension, if he—

(i) has, prima facie, been found to be guilty of criminal breach of trust or criminal negligence or gross financial irregularity or impropriety in an inspection report on audit of accounts and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records, or

(ii) has, in an inspection held by a competent authority, prima facie, been found guilty of criminal breach of trust, financial irregularity, misuse or abuse of power for wrongful gain or gross negligence of duty requiring penal action by a competent authority and his suspension is necessary to prevent any likely delay in further investigation or any tampering or destruction of records

(2) When an office-bearer is placed under suspension under sub-section (1), the Panchayat shall elect another office-bearer in his place to exercise the powers, perform the functions and discharge the duties of such office bearer during the period for which such suspension continues.

(3) Any office-bearer or member, who is placed under suspension under sub-section (1), may within thirty days from the date of the order of suspension, prefer an appeal to such authority as the State Government may appoint in this behalf and thereupon the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.

(4) The order passed by the authority as aforesaid on such appeal shall be final.".

52. Amendment of Section 214.—In sub-section (1) of Section 214 of the principal Act, for the words "within such period not exceeding two years", the words "within such period not exceeding six months" shall be substituted.

53. Insertion of new Section 214A.—After Section 214 of the principal Act, the following section shall be inserted :—

"214A. District Council.—(1) There shall be a District Council for Panchayats in each district consisting of the following members :—

(i) Adhyaksha or the Chairperson—the Leader of the recognised political party in operation having largest number of members directly elected with the reserved symbol of such recognised political party in the Zilla Parishad or the Mahakuma Parishad ;

Provided that if, in a term of general election, no member in opposition is elected with the reserved symbol of a recognised political party in a Zilla Parishad or Mahakuma Parishad, the Adhyaksha for that term shall be elected.

(ii) Upadhyaksha or the Vice-Chairperson—to be elected from amongst the members, not being the Sabhadipati, Sahakari Sabhadipati or Karmadhyaksha, by the members of the Zilla Parishad or the Mahakuma Parishad as the case may be, on majority vote in a meeting ;

(iii) five members elected by the members of the Zilla Parishad or the Mahakuma Parishad, as the case may be, from amongst themselves ;

(iv) three members, being officers of the State Government or of any statutory body or corporation and having such specialised knowledge as the State Government may think fit, nominated by the State Government ;

(v) Additional Executive Officer of the Zilla Parishad or the Mahakuma Parishad—Member-Secretary.

(2) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the functions of the District Council shall be as follows :—

(a) to examine the accounts of the Panchayats within its territorial jurisdiction, in relation to the budget approved by the Panchayats concerned for the expenditure to be incurred by such Panchayats, the annual report of such Panchayats and such other accounts of such Panchayats as the District Council may think fit ;

(b) to satisfy itself, while scrutinising the accounts of the Panchayats, that—

(i) the moneys shown in the accounts as having been disbursed were

legally available for, and applicable to, the service or purpose to which they have been applied.

(ii) the expenditure conforms to the rules governing such expenditure and also the financial proprieties of such expenditure, and

(iii) every re-appropriation has been made in accordance with such rules as are applicable ;

(c) to consider the inspection reports on the annual audit of accounts of any Panchayat within its jurisdiction, conducted by the auditors appointed under Section 186, and to examine the replies thereto furnished by the respective Panchayats ;

(d) to examine the accounts of stores and stocks maintained by the Panchayats within the area of their respective jurisdictions ;

(e) to pursue the matters relating to the unsettled objections raised in any inspection report on audit of accounts of such Panchayats and refer such matters to the authorities concerned suggesting corrective actions ;

(f) to suggest ways and means to remove the difficulties, if any, experienced by the Panchayats in giving effect to any provisions of this Act or the rules made thereunder within their respective jurisdictions.

(3) The term of office of the members of the District Council shall be for the entire period of the term of office of the members of the Zilla Parishad, unless a member of the District Council is restrained by any other provision of this Act from continuing as a member of the Zilla Parishad.

(4) The District Council shall determine its own procedure and shall have the right to obtain a copy of every inspection report on audit of accounts of any Panchayat within the area of its jurisdiction and may call for any record of any Panchayat within such area to be produced for its inspection.

(5) Without prejudice to the generality of the provisions in sub-section (4), the State Government may, by general or special order, provide for—

(a) the procedure for convening of the meetings of the District Council and the procedure for the meetings.

(b) the powers and duties of the Secretary of the District Council,

(c) the terms of office of different members of the District Council and the travelling allowances admissible to such members.

(6) Any elected or nominated member of the District Council may resign his office as such member by tendering his resignation in writing to the Sabhadhipati of the Zilla Parishad or the Mahakuma Parishad, as the case may be, and such resignation shall take effect from the date on which it is accepted by the Sabhadhipati.

(7) Any casual vacancy in the office of any member of the District Council shall be filled in such manner as may be prescribed and the member elected or nominated to fill such casual vacancy shall hold office for the unexpired portion of the term of the Zilla Parishad.".

54. **Amendment of Section 223.**— In sub-section (1) of Section 223 of the principal Act, the words ", with the previous approval of the State Government," shall be omitted.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 464-L., dated 22nd March, 1994.

THE WEST BENGAL CENTRAL VALUATION BOARD (AMENDMENT) ACT, 1994
WEST BENGAL ACT NO. VII OF 1994

An Act to amend the West Bengal Central Valuation Board Act, 1978.

Whereas it is expedient to amend the West Bengal Central Valuation Board Act, 1978 (West Ben. Act 57 of 1978), for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. **Short title and commencement.**—(1) The Act may be called the West Bengal Central Valuation Board (Amendment) Act, 1994.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. **Amendment of Section 5 of West Ben. Act 57 of 1978.**—In section 5 of the West Bengal Central Valuation Board Act, 1978 (hereinafter referred to as the principal Act),—

(a) in sub-section (1), for the word "eight", the word "four" shall be substituted ;

(b) in sub-section (3), for the words "The eight other members shall include such number of officers of the State Government and non-official experts", the words "The four other members shall include the Director of Local Bodies, Government of West Bengal, who shall be the ex-officio member of the Board, and such other officers of the State Government or non-official experts" shall be substituted.

3. **Amendment of Section 8.**—In section 8 of the principal Act, for the words "the other members, the Secretary and", the word "the Member-Secretary, the other members and the" shall be substituted.

4. **Amendment of Section 9.**—In the first proviso to sub-section (2) of section 9 of the principal Act, for the words "in Calcutta and Howrah", the words "notwithstanding anything contained in the foregoing provisions of this section, in Calcutta and Howrah and in any municipality," shall be substituted.

5. **Omissions of Section 10.**—Section 10 of the principal Act shall be omitted.

6. **Substitution of new section for Section 11.**—For Section 11 of the principal Act, the following section shall be substituted :—

"11. **Publication of valuation list.**—When the general valuation of lands and buildings has been made by the Board under Section 9, the Board shall prepare a valuation list and shall give public notice of the place or places where the valuation list may be inspected, and the valuation as aforesaid together with the amount of consolidated rate thereon as recorded in the valuation list shall, subject to the provisions of Sections 14 and 15, be conclusive. The Board shall also give a notice in writing to the owner or to the lessee, sub-lessee or occupier of any land or building, as the case may be, in all cases in which the valuation of such land or building is made for the first time or the annual valuation of such land or building is increased ;

Provided that the valuation list as aforesaid may be prepared and published in respect of all the holdings of any area of a municipality

specified in the notification under sub-section (1) of section 9 or the holdings of any area within such group of wards of a municipality as the State Government may determine."

7. **Omission of Section 12.**—Section 12 of the principal Act shall be omitted.

8. **Amendment of Section 12-A.**—In Section 12A of the principal Act,—

(a) in the marginal note, the word "final" shall be omitted ;

(b) in sub section (1), the word "final" shall be omitted.

9. **Amendment of Section 14.**—In Section 14 of the principal Act,—

(a) in sub section (1), the word "final" shall be omitted ;

(b) for sub-section (4), the following sub-section shall be substituted :—

"(4) No application under sub-section (1) shall be entertained unless the amount of consolidated rate on the previous valuations of the land or building as aforesaid has been paid or deposited in the office of the Corporation or Municipality, as the case may be, before the application is filed, and every such application shall fail unless the amount of consolidated rate on the previous valuation as aforesaid is continued to be paid or deposited in the office of the Corporation or Municipality, as the case may be, till such application is finally disposed of.".

10. **Amendment of Section 15.**—In sub-section (2) of Section 15 of the principal Act,—

(a) in the first proviso, for the words "the other members", the words "the two other members" shall be substituted ;

(b) after the third proviso the following proviso shall be added ;—

"Provided also that when a Corporation or a Municipality is dissolved, the State Government shall constitute the Review Committee consisting of,—

(a) a President, who shall be appointed on such terms and conditions and shall possess such qualifications as may be prescribed, and

(b) two other members from amongst the persons residing in the area within the jurisdiction of the Corporation or in the Municipality, as the case may be.".

11. **Amendment of Section 18.**—In Section 18 of the principal Act, for the words "for the purpose of valuation,", the words "for the purpose of valuation, if such entry has been refused or any objection to such entry has been made, and the owner or the occupier of such land or building shall upon such notice being duly served on him, extend all facilities as may reasonably be expected of him to the officer of the Board so authorised for conducting survey and taking measurement of such land or building or for the purpose of valuation, as the case may be.".

12. **Amendment of Section 25.**—In Section 25 of the principal Act,—

(a) in clause (b), for the word and figures "Section 17,", the words and figures "Section 17, or," shall be substituted ;

(b) after clause (b), the following clause shall be inserted :—

"(c) fails to comply with the provisions of Section 16,".

13. **Omission of Section 27.**—Section 27 of the Principal Act shall be omitted.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 555-L, dated 25th March, 1994.

THE HOOGHLY RIVER BRIDGE (AMENDMENT) ACT, 1994
WEST BENGAL ACT NO. X OF 1994

An Act to amend the Hoogly River Bridge Act, 1969.

Whereas it is expedient to amend the Hoogly River Bridge Act, 1969, (West Ben. Act 36 of 1969) for the purpose and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows ;

1. **Short title and commencement.**— (1) The Act may be called the **Hooghly River Bridge (Amendment) Act, 1994.**

(2) It shall come into force at once.

2. **Amendment of Section 11 of West Ben. Act 36 of 1969.** In the proviso to sub-section (1) of Section 11 of the Hooghly River Bridge Act, 1969, for the words "or fire fighting vehicle, using such bridge on duty,", the words "fire fighting vehicle, vehicle of any Member of Parliament or Legislative Assembly, vehicle of any Judge of the Supreme Court of India, or the High Court, vehicle of the Mayor or the Deputy Mayor of the Calcutta Municipal Corporation or the Howrah Municipal Corporation, or vehicle of such officer or officers of the State Government as may be authorized by the State Government in this behalf, and vehicles of such other persons as may be notified by the State Government, using such bridge on duty," shall be substituted.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 615 L, dated 31st March, 1994.

THE WEST BENGAL LAND (REQUISITION AND ACQUISITION) (AMENDMENT) ACT 1994
WEST BENGAL ACT NO. XIV OF 1994

An Act to amend West Bengal Land (Requisition and Acquisition) Act, 1948, as re-enacted by the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977.

Whereas it is expedient to amend the West Bengal Land (Requisition and Acquisition) Act, 1948 (West Ben. Act II of 1948), as re-enacted by the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977 (West Ben. Act XV of 1977), for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. **Short title.**—This Act may be called the West Bengal Land (Requisition and Acquisition) Amendment Act, 1994.

2. **Amendment of Section 1 of West Ben. Act 2 of 1948.**—In sub-section (4) of Section 1 of the West Bengal Land (Requisition and Acquisition) Act, 1948 (hereinafter referred to as the principal Act) as re-enacted by the West Bengal Land (Requisition and Acquisition) Re-enacting Act, 1977 (West Ben. Act 15 of 1977), for the words, figures and letters "the 31st day of March, 1994,", the words, figures and letters "the 31st day of March, 1997," shall be substituted.

3. **Omission of Section 3.**—Section 3 of the principal Act (hereinafter

referred to as the said section) shall be omitted with effect from the 1st day of April, 1994 :

Provided that such omission shall not—

(a) affect the previous operation of the said section so omitted or anything duly done or suffered thereunder, or

(b) affect any right, privilege obligation or liability acquired, accrued or incurred under the said section so omitted, or

(c) affect any inquiry, investigation, legal proceeding or remedy, in respect of any such right, privilege, obligation or liability as aforesaid.

and any such inquiry, investigation, legal proceeding or remedy may be instituted, continued or enforced as if the said section had not been so omitted :

Provided further that any reference to the said section in any other provision of the principal Act shall be construed as a reference to the said section as if the said section had not been so omitted.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 813 L, dated 5th May, 1994.

THE WEST BENGAL LEGISLATURE (MEMBERS' PENSION) (AMENDMENT) ACT, 1994
WEST BENGAL ACT NO. XXI OF 1994

An Act to amend the West Bengal Legislature (Members' Pension) Act, 1986.

Whereas it is expedient to amend the West Bengal Legislature (Members' Pension) Act, 1986 (West Ben Act 18 of 1986), for the purpose and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows : –

1. **Short title and commencement.** –(1) This Act may be called the West Bengal Legislature (Members' Pension) (Amendment) Act, 1994.

(2) It shall come into force at once.

2. **Amendment of Section 3.** –In Section 3 of the West Bengal Legislature (Member's Pension) Act, 1986, for sub-section (1A), the following sub-section shall be substituted : –

"(1A) Notwithstanding anything contained in sub-section (1), where a person has served after the 1st day of January, 1952 –

(a) as a Member of the Legislative Assembly for any part of the term thereof, or

(b) as a Member of the Legislative Council for any part of his term as such Member,

he shall be deemed to have served for a period of five years as such Member and shall, subject to the proviso to sub-section (1), be paid a pension of—

(i) four hundred rupees per mensem with effect from the 1st day of April, 1987 till the 26th day of August, 1990 ; and

(ii) five hundred and fifty rupees per mensem with effect from the 27th day of August, 1990"

Published in the Calcutta Gazette, Extraordinary, Part III, No. 816-L, dated 5th May, 1994.

THE WEST BENGAL SALARIES AND ALLOWANCES (AMENDMENT) ACT, 1994)

WEST BENGAL ACT NO. XXII OF 1994

An Act to amend the West Bengal Salaries and Allowances Act, 1952.

Whereas it is expedient to amend the West Bengal Salaries and Allowances, Act, 1952 (West Ben. Act V of 1952), for the purpose and in the manner hereinafter appearing ;

It is hereby enacted in the Forth-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. **Short title and commencement.**—(1) This Act may be called the West Bengal Salaries and Allowances (Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 21st day of January, 1994.

2. **Amendment of section 9 of West Ben. Act V of 1952.**—In section 9 of the West Bengal Salaries and Allowances Act, 1952, after the words "salaries and allowances", the words, "other than daily allowance", shall be inserted.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 815-L, dated 5th May, 1994.

THE WEST BENGAL LEGISLATIVE ASSEMBLY (MEMBERS' EMOLUMENTS) (AMENDMENT) ACT, 1994

WEST BENGAL ACT NO. XXIII OF 1994

An Act to amend the Bengal Legislative Assembly (Members' Emoluments) Act, 1937 (Ben. Act II of 1937), for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the legislature of West Bengal, as follows :—

1. **Short title and commencement.**—(1) This Act may be called the West Bengal Legislative Assembly (Members' Emoluments) (Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 21st day of January, 1994.

2. **Amendment of Section 4 of Ben. Act II of 1937.**—In Section 4 of the Bengal Legislative Assembly (Members' Emoluments) Act, 1937 (hereinafter referred to as the principal Act),—

(1) in clause (a),—

(a) for sub-clause (i), the following sub-clause shall be substituted :—

'(i) daily allowance at the rate of one hundred and fifty rupees per diem,

"Explanation.—Notwithstanding anything contained elsewhere in this Act or any other law for the time being in force, for the purposes of this clause, a member of the Governor's Council of Ministers, if elected to the West Bengal Legislative Assembly, the Speaker of the West Bengal Legislative Assembly, the Deputy Speaker of the said Assembly, the Leader of the Opposition the Chief Government Whip, a Parliamentary Secretary, a Parliamentary Under-Secretary, or a Parliamentary Private Secretary,

for the return period from———to———

(See rule 9)

Name of the stockist———carrying on business under the trade name of———Address of the stockist———Licence No. of the stockist———

Registration Certificate No. if any, under—

(a) the Bengal Finance (Sales Tax) Act, 1941———

[Ben. Act VI of 1941]

(b) the West Bengal Sales Tax Act, 1954———

[West Ben. IV of 1954]

Enrolment Certificate No. if any, under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979———

[West Ben. Act VI of 1979]

Turnover of stock of luxuries during the Return period Rs.———(A)

Less : Deduction of turnover of stock of luxuries—

(a) under Section 5(a) Rs.———

(b) under Section 5(b) Rs.———

Total Rs.———(B)

Turnover of stock of luxuries on which luxury tax is payable Rs.———(C)

[(A) — (B)]

Luxury tax payable @ per centum on Rs.———[shown in (C)] Rs.———(D)

Luxury tax payable for Rs.———(Rupees———) [vide (D)] paid
(in figures) (in words)

under Challan No.———, dated———of the *Government Treasury/ Reserve Bank of India.

The above statement is true to the best of my knowledge and belief.

Dated———

Signature and status of the person signing the return.

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM VI

Statement of interest payable under sub-section (1) or sub-section (2) of Section 8 of the West Bengal Luxury Tax Act, 1994

(See rule 10)

Name of stockist———carrying on business under the trade name of———

Address of the stockist———

Licence No. of the stockist———

Relevant *return period/ period of assessment.	Amount of luxury tax to be paid as per returns/ assessment order	*Prescribed date/ date specified in the notice by which payment is to be made.	Actual *date(s) of payment/date of assessment.
1	2	3	4

Actual amount of luxury tax paid	Amount of luxury tax remaining unpaid at the end of a month [vide (2) and (5) rounded off under section 8 (7)	Number of full months of default [vide (3) and (4)]	Rate of interest payable per month	Interest payable
5	6	7	8	9

2. Interest payable for Rs .....(Rupees.....) [vide (9)]
(in figures) (in words)
is paid by Challan No.....dated.....date of.....the.....Treasury/the Reserve Bank of India.

The above statements are true to the best of my knowledge and belief.

Dated.....

.....
Signature and status of the person signing the statement

*Strike out whichever is not applicable.

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM VII

Notice under section *9 (1)/9 (2) of the West Bengal Luxury Tax Act, 1994

[See rule 15 (1)]

To

——————————(stockist)

——————————(address)

Whereas—

*(a) You, a licensed stockist holding licence No.————have not furnished all the returns in respect of the goods of the year/part of the year commencing from————and ending on————;

*(b) I am not satisfied that the returns furnished by you in respect of the goods of the year commencing from————and ending on————;

*And whereas as it appears to me to be necessary to make an assessment under sub-section (1) of section 9 of the West Bengal Luxury Tax Act, 1994, in respect of the above-mentioned year/part of the year;

*And whereas I am satisfied on information which has come into my possession that you have been liable to pay luxury tax under the West Bengal Luxury Tax Act, 1994, in respect of the period commencing on———— and ending on————but that you have failed to obtain a licence;

*And whereas it appears to me to be necessary to make an assessment under sub-section (2) of section 9 of the said Act in respect of the above-mentioned period.

You are hereby directed to attend in person or by an agent at (place)————, on (date)————at (time)————and there to produce, or cause there to be produced, the accounts, documents and other records specified below for the purpose of such assessment, together with any objection which you may wish to prefer and any evidence you may wish to adduce in support

thereof.

*and

to show cause on that date and at that time why in addition to the amount of luxury tax payable by you to be assessed for the period from———to ———a penalty not exceeding———....of the amount of luxury tax as assessed shall not be imposed on you under sub-section (1) of section 9 of the said Act.

In the event of your failure to comply with this notice, I shall assess under sub-section (1)/sub-section (2) of section 9 of the said Act, to the best of my judgment without reference to you.

.....

Date..... Prescribed Authority

Particulars of accounts, documents and records required for the year ending on———/period from———to———

1. Registers and documents to prove the correctness of the quantum of productions of specified commodities.

2. Registers and documents to prove the correctness of the quantum of imports of specified commodities.

3. Stock Register of specified commodities.

4. Counterfoil or copies of sale bills and cash memo in respect of specified commodities.

5. Purchase vouchers, bills or other documents invoice in support of imports of specified commodities.

6. Documents necessary to prove the correctness of the turnover and claims for deduction.

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM VIII

Notice of demand under section *9 (1)/9 (2) of the West Bengal Luxury Tax Act, 1994

[See rules 15 (4) and 17]

To

———(stockist)

———(address)

*In continuation of the notice in Form.....served on you on the .....day of.....with reference to your petition of review/appeal/ revision before the *Commercial Tax Officer/Assistant Commissioner/Additional Commissioner of Commercial Taxes/Prescribed Authority/Tribunal, you are hereby informed that your turnover on which luxury tax is payable for the period from.....to.....—has been assessed at Rs..... (in figures)

(Rupees.....) and accordingly luxury tax amounting to (in words)

Rs..... (Rupees.....) (1) is payable by you ; *further, (in figures) (in words)

under sub-section (1) of section 9, you are to pay Rs..... (in figure)

(Rupees.....) (2) as penalty. (in words)

*You are hereby directed to pay the sum of Rs.....(Rupees (in figures)

.....) (3) (as per details below) into the *Calcutta Collectorate. (in words)

Treasury/Reserve Bank of India/Government Treasury at .....on or before (date).....and to produce the receipt in proof of payment before the undersigned not latter than.....(date), failing which the said sum of Rs.....(Rupees.....will be recoverable
(in figures) (in words)
from you as an arrear of land revenue payable to the Collector and you shall be liable to pay interest under sub section (2) of section 8.

*You are hereby informed that out of the excess payment (as per details below) amounting to Rs..... ... (Rupees .....) has been adjusted
(in figures) (in words)
against arrears of luxury tax, penalty and interest for the periods as mentioned below :

Sl. No.	Period of assessment/ determination	Amount adjusted against arrears Rs.	P.
1.			
2.			
3.			
	Total		

After the aforesaid adjustment there still remains Rs .....
(in figures)
(Rupees.....) refundable to you for which a Refund Payment
(in words)
Order (Cash) is enclosed.

*You are hereby informed that the actual sum payable by you as above is equal to the total sum already paid by you (as per details below) :

1. Luxury tax payable
2. Penalty under section Total :
Less : (i) Luxury tax paid
(ii) Penalty paid
3. Due ; (i) Luxury tax
(ii) Penalty
Excess paid : (i) Luxury tax
(ii) Penalty

Date.....

.....
Prescribed Authority

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM IX

Notice of determination of interest under sub-section (5) of section 9 of the West Bengal Luxury Tax Act, 1994

[See rules 16 (3) and 17]

To

.....(stockist)

.....(address)

You are hereby informed that the interest payable by you under sub-section (1) of section 8 read with rules 16 (1) (a) (i) for default in payment

of luxury tax as per returns in respect of the months (s).....of the year, .../sub-section (2) of section 8 for default in payment of assessed luxury tax due in respect of the period.....has been *determined/redetermined under sub-section *(5)/(7) of section 9 with reference to your petition for review/appeal/revision dated the.....day of..... before the *Commercial Tax Officer/Assistant Commissioner/Additional Commissioner of Commercial Taxes/Prescribed Authority/Tribunal ; at Rs..... .....(Rupees .....), and interest payable by you under
(in figures) (in words)
sub-section (1) of section 8 read with rule 16 (1) (a) (ii) for default in respect of the months of.....of the year.....has been *determined under sub-section *(5)/(7) of section 9 at Rs.....(Rupees.....
(in figures) (in words)
on the basis of tax payable by you according to *assessment for the said months/order passed on *review/appeal/revision for such period, and accordingly interest amounts to Rs ..... (Rupees.....)
(in figures) (in words)
is payable by you (as per details below) ;

You are hereby directed to pay the sum of Rs.....(Rupees
(in figures)
.....) into the *Calcutta Collectorate Treasury/Reserve Bank of
(in words)
India, Calcutta/*Government Treasury at.....on or before (date) and to produce the receipt in respect of the payment before the undersigned not later than the.....day of.....failing which the said sum of Rs.....(Rupees .....) shall be recoverable from you as an
(in figures) (in words)
arrear of land revenue payable to the Collector.

*You are hereby informed that out of the excess payment amounting to Rs.....(Rupees.....), has been adjusted against arrears of
(in figures) (in words)
*luxury tax, penalty and interest for the period as mentioned below :

Sl. No.	Period/Period of assessment	Amount adjusted against arrears Rs.	P.
1.			
2.			
3.			

After the aforesaid adjustment there shall remain Rs.....
(in figures)
(Rupees.....) refundable to you which a Refund Adjustment Order
(in words)
is enclosed :

Details	*Rs.*
*Interest payable under section 8 (1) read with rule 16 (1) (a) (i)	.....
*Interest payable under section 8 (1) read with rule 16 (1) (a) (ii)	.....
*Interest payable under section 8 (2)	.....

Less paid : *Interest payable under section 8 (1) read with rule 16 (1) (a) (i)

*Interest payable under section 8 (1) read with rule 16 (1) (a) (ii)

*Interest payable under section 8 (2)

Total :

Excess paid Due

Address :

Date.....

.....
Prescribed Authority

*Strike out whichever is not applicable.

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM X

Notice for sale in auction of the luxuries seized under Section 13 (1) of the West Bengal Luxury Tax Act, 1994

[See rule 23(1)]

To

————————(name of the stockist from whom luxuries are seized)

————————(address)

Whereas it appears that you have failed to comply with the requirements of the provisions under sub-section (4) of Section 13 and take delivery of the luxuries seized from you on————(date) under sub-section (1) of Section 13 on production of the receipted challan as a proof of full payment of *penalty of Rs.————(Rupees————) imposed on you under sub-section (in figures) (in words)

(2) of Section (/luxury tax of Rs.————(Rupees————) for the (in figures) (in words)

period from————to————

And whereas it appears to me to be necessary to sell the seized luxuries in auction for the purpose of realisation of the unpaid amount of *penalty/ luxury tax, as stated above ;

You are hereby directed to appear before the undersigned on————(date) at————(time) to produce the receipted challan as a proof of payment of the aforesaid amount of penalty/luxury tax and to take delivery of the seized luxuries.

It may be noted that in the event of your non-compliance with this notice, the seized luxuries may be put up for open auction sale and the sale proceeds may be applied in accordance with the provisions of the said Act and the rules made thereunder without further reference to you.

Address————— Signature—————

Dated————— Designation—————

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM XI

Notice calling for objection and evidence against the proposed order under Section 15 (4) and 15 (5) under the West Bengal Luxury Tax Act, 1994

(See rule 28)

To
————————(stockist)
————————(address)

Whereas it is proposed to pass an order to the effect mentioned below; you are hereby informed that if you wish to prefer any objection against such order you should attend either personally or by an agent authorised for that purpose at the office of the undersigned at (time)————on (date)————,
Dated———— Signature————
Designation————

Gist of the order proposed to be passed.

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM XII

Direction to the Officer-in-charge of the appropriate Government Treasury for receipt of composition money

(See rule 32)

To
The officer-in-charge of
the Government Treasury at————
Calcutta Collectorate Treasury
the Reserve Bank of India at Calcutta

Whereas in accordance with the provisions of Section 21 of the West Bengal Luxury Tax Act, 1994, I have agreed to accept by way of composition the sum of Rs.————(Rupees————) from (stockist) of————
(in figures) (in words)
(address), you are hereby directed to receive the said sum on my behalf and to place it to the credit of the State Revenue. and to return two receipted challans to the aforesaid stockist and one copy of the challan to me (the appropriate Commercial Tax Officer).

Signature————
Prescribed authority
Additional Commissioner of Commercial Taxes
Assistant Commissioner
Commercial Tax Officer

Dated————
Copy forwarded to the Commercial Tax Officer of————

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM XIII

Form of Memorandum of appeal under Section 15 of the West Bengal Luxury Tax Act, 1994

[See rule 25 (1)]

To
The————
The————day of————

(a) Period of assessment————
(b) Date of order appealed against————
(c) Name and designation of the officer who passed the order—
(d) (i) Amount of luxury tax assessed
(ii) Amount of penalty imposed

(iii) Amount of interest determined

(e) (i) Amount of luxury tax admitted

(ii) Amount of penalty admitted

(iii) Amount of interest admitted

(f) (i) Amount of luxury tax in dispute

(ii) Amount of penalty in dispute

(iii) Amount of interest in dispute

The petition————carrying on business known as————bearing Licence No.————whose chief place of business is situated at———— sheweth as follows :—

1. Under the West Bengal Luxury Tax Act, 1994, your petitioner haf been assessed for a turnover on which luxury tax is payable at Rs.———.

2. Under *sub-section (2) of Section 6/sub-section (1) of Section 9 of the Act a penalty of Rs.———has been imposed on your petitioner.

3. Under sub-section *(5)/(7) of Section 9 of the Act interest for Rs.———has been *determined/redetermined to be payable by your petitioner.

4. The notice of demand issued under sub-section (2) of Section 6/sub-section (1) or sub-section (2) or sub-section (5) of Section 9 and received on ———is attached hereto.

5. A copy of the order appealed against is attached.

6. Your petitioner has paid all luxury tax assessed and penalty imposed or interest determined under the order appealed against by treasury challan No.———, dated———

7. Your petitioner's turnover on which luxury tax is leviable, interest payable for the period mentioned above amounted to Rs.————

8. Such turnover was the whole turnover of your petitioner during the period of assessment. Your petitioner had no other turnover either taxable or otherwise during the said period.

9. Your petitioner has made a return of turnover to the office of——— under Section 7 of the Act and has complied with all the terms of the notice served on him by———under Section 9 of the Act.

10. Being aggrieved by the aforementioned order of———your petitioner begs to prefer the appeal on the following among other.

GROUNDS

(Here enter the grounds on which you rely for the purpose of this appeal)

11. Your petitioner, therefore, prays that he may be assessed accordingly or that he may be declared not to be chargeable to luxury tax or interest under the Act or that the assessment order of determination may be cancelled and/or remanded to——— for reassessment or re-determination or that the order of the———imposing penalty of Rs.———upon your petitioner may be set aside of that he may be granted such relief or reliefs as may be deemed just or proper.

Verification

I,———, the petitioner named in this petition do hereby declare that all luxury tax, interest and penalty admitted to be due in respect of the order of assessment, imposition of penalty or determination of interest appealed against has been paid by Treasury Challan No.———dated———and

THE

Current Indian Statutes

SUPPLEMENT

MAHARASHTRA & GUJARAT

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Published in the Maharashtra Government Gazette, Extraordinary, Part IV (Ka), dated 28th September, 1994.

FOOD AND CIVIL SUPPLIES DEPARTMENT

No RDL-1893/387/(5086)XXIII (*Mantralaya Annexe, Bombay-400 032, dated the 28th September, 1994*).—In exercise of the powers conferred by clauses (c), (d), (e), (h), (i) (ii) and (j) of sub-section (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with Government of India, Ministry of Industries and Civil Supplies (Department of Civil Supplies and Co-operation), Order No. S. O 681 (E), dated the 30th November, 1974 and Order No. S. O. 682 (E), dated the 30th November, 1974 and the Government of India, Ministry of Agriculture and Irrigation (Department of Food), Order No. G.S.R. 800, dated the 9th June, 1978 and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the following Order further to amend the Maharashtra Scheduled Commodities Retail Dealers' Licensing Order, 1979, namely :—

1. This Order may be called **Maharashtra Scheduled Commodities Retail Dealers Licensing (Amendment) Order, 1994.**

2. In the Maharashtra Scheduled Commodities Retail Dealers' Licensing Order, 1979, in clause 2, in sub-clause (j),—

(a) in para (v) for the words, "five quintals" the words, fifteen quintals" shall be substituted.

(b) in para (vi) for the words "ten quintals" the words, "twenty quintals" shall be substituted.

Published in the Maharashtra Government Gazette, Extraordinary, Part IV (Aa), dated 5th October, 1994.

FOOD AND CIVIL SUPPLIES DEPARTMENT

No. CPC-4094/2250/CR. 1106/CS-XA.—(*Mantralaya Annexe, Bombay-430 032, dated the 5th October, 1994*).—In exercise of the powers conferred by sub-section (2) of section 30 of the Consumer Protection Act, 1986 (68 of 1986), the Government of Maharashtra hereby makes the following rules further to amend the Maharashtra Consumer Protection Rules 1987, as follows, namely :—

1. These rules may be called the **Maharashtra Consumer Protection (Amendment) Rules, 1994.**

2. In rules 6 of the Maharashtra Consumer Protection Rules, 1987, in

sub-rule (3), after clause (e), the following clause shall be inserted, namely :—

"(f) has remained absent for three consecutive sittings of the State Commission without prior permission of the President of the State Commission".

Published in the Maharashtra Government Gazette, Extraordinary, Part IV (Aa), dated 11th October 1994.

FOOD AND CIVIL SUPPLIES DEPARTMENT

No. LVY. 1390/1490/CS-29/CR-1245.(*Mantralaya Annexe, Bombay-400 032, dated the 11th October, 1994*).—In exercise of the powers conferred by sub-sections (1) and (2) of section 3 of the Essential Commidities Act, 1955 (10 of 1955) read with the Government of India, Ministry of Agriculture, (Department of Food), Order No. GSR. 452 (E), dated the 26th October, 1973 and Ministry of Agriculture and Irrigation (Department of Food), Order No. GSK-800, dated the 9th June, 1978 and with the concurrence of Government of India, the Government of Maharashtra hereby makes the following order further to amend the Maharashtra Rice (Levy on Rice Millers) Order, 1989, namely :—

1. (1) This Order may be called the **Maharashtra Rice (Levy on Rice Millers) (Second Amendment) Order, 1994.**

(2) It shall come into force on the 1st October, 1994.

2. In clause 3 of the Maharaahtra Rice (Levy on Rice Millers) Order, 1989 after sub-clause (c), the following proviso shall be inserted namely :—

"Provided that, if a licensed miller mills non-Basmati superfine rice which is meant for export outside India, he shall not have to pay levy on such stocks of superfine rice."

Published in the Gujarat Government Gazette, Extraordinary, Part IV-A, dated November 9, 1994.

LABOUR AND EMPLOYMENT DEPARTMENT

No. GHR-94-262-ECA-1088-1/336-M-3:—(*Sachivalaya, Gandhinagar, 9th November, 1994*).—Whereas draft notification No. GHR-94-ECA-1088-I-336-M (3), dated 29th June, 1994 was published at pages 64 to 64-4 in the Gujarat Government Gazette Extraordinary Part IV-A dated 29th July, 1994 inviting objections and suggestions within a period of thirty days from 29th July, 1994 from all persons likely to be affected thereby ;

And whereas no objection and suggestion has [been received by the Government during the period specified in the aforesaid notification on the said draft ;

Now, therefore, in exercise of the powers conferred by section 18 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986), the Government of Gujarat hereby makes the following rules, namely :—

1. **Short title.**—These rules may be called **the Child Labour (Prohibition and Regulation) (Gujarat) Rules, 1994.**

2. **Definitions.**—In these rules, unless the context otherwise requires,—

(a) "Act" means the Child Labour (Prohibition and Regulation) Act, 1961 (61 of 1986).

(b) "Form" means a form appended to these rules.

(c) "Schedule" means the schedule appended to the Act.

3. (1) No child shall be required or be permitted to work in any establishment for more than five hours on any working day.

(2) In every establishment in which children are employed in accordance with the provisions of section 7, there shall be displayed in Form I and properly maintained a notice of period of work for children, showing clearly for every day the periods during which child workers may be required to work.

4. **Register.**—(1) Every occuppier of an establishment shall maintain a register in Form II in respect of children employed or permitted to work.

(2) The register shall be maintained on a yearly basis but shall be retained by the employer for a period of three years after the date of the last entry made therein.

5. **Certificate of age.**—(1) Every occupier engaging a child in employment in any of the occupation other than those specified in Part A of the said Act or in any workshop wherein any of the processes other than those specified in part B of the Schedule of the said Act is carried on, shall produce a certificate of age from the appropriate medical authority, whenever required to do so by an Inspector.

(2) The certificate of age referred to in sub-rule (1) shall be issued in Form III.

(3) The charges payable to the medical authority for the issue of such certificate shall be the same as are prescribed by the State Government or the Medical Boards for similar purpose.

(4) The charges payable to the medical authority shall be borne by the occupier in respect of the child whose age is under question.

Explanation.—For the purposes of sub-rule (1), the "appropriate Medical Authority" shall be a Govt. Medical Officer not below the rank of an Assistant Surgeon of a District or a regular doctor of equivalent rank employed in Primary Health Centres or in Employees' State Insurance Dispensaries or hospitals.

5. **Power to exempt.**—The State Government may exempt, by an order specifying therein such conditions and for such period as it may consider fit, any establishment from all of any of the provisions of these rules.

FORM NO. I

See rule 3(2)

Notice of period of work for child workers

Name of Establishment ..... Dated.....

Priod of work	Children	Nature of work	Remarks
	Total number of children employed.....		
From To			
From To			

Date on which this notice is first exhibited.....199

(Signature)

Manager

FORM II
(See rule 4(1)

Place of work .....

Year.....
Name and address of employer .....
Nature of work being done by the establishment .....

Sr. No.	Name of the Child	Fathers/ Guardians name	Date of birth of the child	(i) His Permanent address (ii) Present postal address	Date of his Joining the establi-ment	Nature of work of the Child
1	2	3	4	5	6	7

Daily hours of work	Period of work	Intervals of rest to which he is entitled	Wages paid Daily/Monthly	Remarks
8	9	10	11	12

FORM—III
(Certificate of age)
(See rule 5 (2)

Certificate No.

It hereby certify that I have personally examined (name).....son/daughter of .....residing at..... and that he/she completed his/her fourteenth year and his/her age, as herely as can be ascertained from my examination is ..... year (completed). His/her descriptive marks are..... .....Thumb-impression/signature of child.....

Medical Authority
Designation.

Place.....
Date.....

Published in the Gujarat Government Gazette, Extraordinary, Part IV-A, dated 6th October, 1994.

PORTS AND FISHERIES DEPARTMENT

No. G/PF/5/94/GMB/3791/35021/GH,—(*Sachivalaya, Gandhinagar, 6th October, 1994*).— Whereas certain draft of a notification was published as

required by sub-section (2) of the section 6 of the Indian Ports Act, 1908 (XV of 1908) at pages 66-1 to 66-2 of the Gujarat Government Gazette, Extraordinary, Part-IV-A dt. 8th June, 1992 under Government Notification Roads and Building Department No. G/J/8/92/GMB/3791/35021/GH, dt. 8th June, 1992-inviting objections and suggestions from all persons likely to be affected thereby after the expiry of thirty days from the date of its publication in the Official Gazette.

And, Whereas, some objections or suggestions from the public on the said draft notification have been received by Government.

Now, in exercise or the powers conferred by clause (ii) of sub-section ( ) of section 6 of the Indian Ports Act, 1908, (XV of 1908) in its application to the State of Gujarat, the Government of Gujarat hereby makes with effect on and from 6th October, 1994 the following rules further to amend the Gujarat Ports (Warehousing) Rules, 1974, namely :—

1. These rules may be called the **Gujarat Ports (Warehousing) (Amendment-2) Rules 1994.**

2. In the Gujarat Ports (Warehousing) Rules, 1974 for appendix the following shall be substituted, namely :—

APPENDIX—F

[See rule 5(1)]

Scales of Warehousing Charges

Sr. No.	Description of package	Per unit or part thereof	Rent per day or part thereof
1	2	3	4
1.	Bags and Bales		Rupees Ps.
	(a) Bags	Bag	1-20
	(b) Bales	Bale	1-20
2.	Cases and Crates	One cubic Metre	1-80
3.	Cask. Kegs, drums and Jars		
	(a) If contents are liquid		
	(i) Not above 300 litres capacity	Per container i.e. Cask Kegs, Drum of Jar as the case may be	1-80
	(ii) above 300 litres capacity		2-40
	(b) If contents are solid or semi-solid, such as paints, cement chalk etc.		
	(i) not exceeding 12 decimetres in height		1-20
	(iii) above 12 decimetres height		1-80
4.	Carriage and Motorcars	Each	48-00
5.	Valuable Viz. bullion, silver lametta thread, Jwellary silver goods	—	Quardruple the rate shown of packages of smaller size.
6.	Combustibles	—	Treable the rates quoted

1	2	3	4
			for packages of smaller size
7.	Machinery un-packed	100 Kgs. or whichever may be more favourable to Fort.	1-80
8.	Articles, not enumerated above i.e. not otherwise rated (N.O.R.)	—do—	1-80

Published in the Gujarat Government Gazette, Part IV-E, dated August, 12, 1994.

EDUCATION DEPARTMENT

No. GH/SH 28/94/TCM-1491-1034/94-N.—(*Sachivalaya, Gandhinagar, 12th August, 1994*).—Whereas, draft of a notification under section 13 of the Gujarat Educational Institutions (Regulation) Act, 1984 (Guj. 7 of 1984) was published as required by sub-section (1) of section 13 of the said Act at pages 101-1 to 101-2 of Gujarat Government Gazette, Extraordinary, Part IV-E, dated the 27th May, 1994, under the Government Notification, Education Department No. GH/SH/19/94/TCM-1491/1034/91-N, dated the 27th May, 1994 inviting objections or suggestions from all persons likely to be affected thereby till thirty days from the date of publication of the said notification in the Gujarat Government Gazette ;

And, whereas, no objections and suggestions have been received on the said draft by the Government ;

Now, therefore, in exercise of the powers conferred by section 13 of the Gujarat Educational Institutions (Regulation) Act, 1984 (Guj. 7 of 1984), the Government of Gujarat hereby makes the following rules further to amend the Gujarat Educational Institutions (Pre-Primary and Primary Teachers Training Colleges) Rules, 1994, namely :—

1. These rules may be called the Gujarat Educational Institutions (Pre-Primary and Primary Teachers Training Colleges) (2nd Amendment) Rules, 1994.

2. In the Gujarat Educational Institutions (Pre-Primary and Primary Teachers Training Colleges) Rules, 1984, in rule 3, for sub-rule (6), the following shall be substituted, namely :—

"(6) Unless otherwise directed by the Director, the academic year of the Educational Institutions shall commence from the 1st November, and end on the 30th September. There shall be a vacation not exceeding three weeks in the winter and a vacation not exceeding six weeks in the summer, the commencement and duration of which shall be such as may be decided by the Director."

Published in the Gujarat Government Gazette, Extraordinary, Part IV-A, dated October 6 1994.

PORTS AND FISHERIES DEPARTMENT

No. G/PF/3/94/GMB-3791-3503-GH.—(*Sachivalaya, Gandhinagar, 6th October, 1994*).—Whereas certain draft of a notification was published as

required by sub-section (2) of section 6 of the Indian Ports Act, 1908 (XV of 1908), at Page 64-1 to (4-2 of the Gujarat Government Gazette, Extraordinary, Part IV-A, dated 8th June, 1992, under Government Notification, Roads and Building Department No. G/7/6/92/GMB-3791-3502-GH, 8th June, 1992, inviting objections and suggestions from all persons likely to be affected thereby after the expiry of thirty days from the date of its publication in the Official Gazette.

And, whereas, no objections/suggestions from the public on the said draft notification have been received by Government.

Now, therefore, in exercise of the powers conferred by clause (kk) of sub-section (1) of section 6 of the Indian Ports Act, 1908 (XV of 1908), in the application to the State or Gujarat, the Government of Gujarat hereby makes with effect on and from 6th October, 1994 the following rules further to amend the Gujarat Ports (Licensing of persons engaged in Loading or Unloading of Vessels) Rules, 1969, namely :—

1. These rules may be called the **Gujarat Ports (Licensing of persons engaged in Loading or Unloading Vessels) (Amendment-2) Rules, 1994.**

2. In the Gujarat Ports (Licensing of persons engaged in Loading or Unloading of Vessels) Rules, 1969, in rule 3, for sub-rule (4), the following shall be substituted, namely :—

"(4) the fees specified below shall be chargeable in respect of each licence, namely :—

(i) for the grant of licence	Rs. 2400/-
(ii) for renewal of licence	Rs. 1200/-
(iii) for issue of duplicate licence	Rs. 400/-

Published in the Gujarat Government Gazette, Extraordinary, Part IV-A, dated October 6, 1994.

PORTS AND FISHERIES DEPARTMENT

No. G PF 4/94 GMB 3791-35021/GH.—*(Sachivalaya, Gandhinagar, 6th October, 1994).*—Whereas certain draft of a notification was published as required by sub-section (2) of section 6 of the Indian Ports Act, 1908 (XV of 1908), at page 65-1 of the Gujarat Government Gazette, Extraordinary, Part IV-A, dated 8th June, 1992 under Government Notification, Roads and Building Department No. G/7/7/92/GMB/0791/35021/GH, dated 8th June, 1992 inviting objections and suggestions from all persons likely to be affected thereby after the expiry of thirty days from the date of its publication in the Official Gazette.

And, whereas, no objections or suggestions from the public on the said draft notification have been received by Government.

Now, therefore, in exercise of the powers conferred by clause (k) of sub-section (1) of section 6 of the Indian Ports Act, 1908 (XV of 1908) in its application to the State of Gujarat, the Government of Gujarat hereby makes with effect on and from 6th October, 1994 the following rules further to amend the Gujarat Minor Ports (Passenger Vessels) Rules, 1961, namely :—

1. These rules may be called the **Gujarat Minor Ports (Passenger Vessels) (Amendment-2) Rules, 1994.**

2. In the Gujarat Minor Ports (Passenger Vessels) Rules, 1961, in rule 4 in sub-rule (1), for the letters and figures "Rs. 120/-", the letters and

figures "Rs. 14½/-" shall be substituted.

Published in the Gujarat Government Gazette, Extraordinary, Part IV-B, dated October 1, 1994.

FINANCE DEPARTMENT

No. (GHN-31) GSR-1094-(78)-TH.—(*Sachivalaya, Gandhinagar, 1st October, 1994*).—Whereas the Government of Gujarat is satisfied that circumstances exist which render it necessary to take immediate action to amend the Gujarat Sales Tax Rules, 1970 and to dispense with the previous publication thereof under the proviso to sub-section (4) of section 86 of the Gujarat Sales Tax Act, 1969 (Guj. 1 of 1970) ;

Now, therefore, in exercise of the powers conferred by section 86 of the said Act, the Government of Gujarat hereby makes the following rules further to amend the Gujarat Sales Tax Rules, 1970, namely :—

1. These rules may be called the **Gujarat Sales Tax (Amendment) Rules, 1994.**

2.—In the Gujarat Sales Tax Rules, 1970, in rule 6, after sub-rule (1), the following shall be inserted, namely :—

"(1-A) A member of the Tribunal shall hold office until he attains the age of sixty-five years."

Published in the Gujarat Government Gazette, Extraordinary, Part IV-B, dated October 1, 1994.

URBAN DEVELOPMENT AND URBAN HOUSING DEPARTMENT

No. GH/V/416 of 1994-SAA-1188-128 (D)-K.—(*Sachivalaya, Gandhinagar, 1st October, 1994*) —In exercise of the powers conferred by section 58 of the Gujarat Slum Areas (Improvement, Clearance and Re-development) Act, 1973 (Guj. 11 of 1973), the Government of Gujarat hereby makes the following rules further to amend the Gujarat Slum Areas (Improvement, Clearance and Re-development) Rules, 1975, namely :—

1. These rules may be called the **Gujarat Slum Areas (Improvement, Clearance and Re-development) (Amendment) Rules 1994.**

2. In the Gujarat Slum Areas (Improvement, Clearance and Re-development) Rules, 1975 (hereinafter referred to as "the said rules"), for rule 25, the following shall be substituted, namely ;—

"25. **Period within which tenant may file the declaration under section 18 (1).**— Tenant in occupation of any building in a slum area, so declared, desires to be replaced in occupation of the building after completion of the work of improvement or re-erection of the building shall file a declaration to the prescribed authority in Form F within thirty days from the date of vacation or eviction of any such building by the tenant, as the case may be".

3. In the said rules, after rule 25, the following shall be inserted, namely ;—

"25-A. **Period within which owner may furnish plans under section 18 (2).**—The owner of the vacated buildsng shall furnish to the prescribed authority, the plans of works of improvement or re-erection of the building with the estimates about the cost thereof and such other particulars, as may be necessary, within ninety days from the date of intimation received by him from the prescribed authority".

4. In the said rules, after Form 'E' the following shall be added,

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Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 489, dated 2nd December, 1994.

MINISTRY OF EXTERNAL AFFAIRS

G.S.R. 833 (E).—*(New Delhi, the 2nd December, 1994).* In exercise of the powers conferred by section 24 of the Passport Act, 1967 (15 of 1967), the Central Government hereby makes the following rules further to amend the Passport Rules, 1980, namely ;—

1. (1) These rules may be called the **Passport (Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Schedule I to the Passport Rules, 1980 (1) for serial No. 3 and entries relating thereto, the following serial number and entries shall be substituted, namely :—

S. No.	Passport Authority	Jurisdiction
(1)	(2)	(3)
"3.	(a) Regional Passport Officer, Delhi (Regional Passport Office, Delhi).	The Union Territory of Delhi, the districts of Meerut, Ghaziabad in the State of Uttar Pradesh and the districts of Faridabad, Gurgaon, Sonepat and Rohtak in the State of Haryana.
	(b) Assistant Passport Officer (Regional Passport Office, Delhi).	The Union Territory of Delhi, the districts of Meerut, Ghaziabad in the State of Uttar Pradesh, and the districts of Faridabad, Gurgaon, Sonepat and Rohtak in the State of Haryana.
	(c) Public Relations Officer (Regional Passport Office, Delhi).	The Union Territory of Delhi, the districts of Meerut, Ghaziabad in the State of Uttar Pradesh, and the districts of Faridabad, Gurgaon, Sonepat and Rohtak in the State of Haryana.
	(b) Superintendent (Regional Passport Office, Delhi).	The Union Territory of Delhi, the districts of Meerut, Ghaziabad in the State of Uttar Pradesh, and the districts of Faridabad, Gurgaon, Sonepat and Rohtak in the State of Haryana." ;

(2) for serial No. 4 and entries relating thereto, the following serial number and entries shall be substituted, namely :—

"4.	(a) Regional Passport Officer, Chandigarh (Regional Passport Office, Chandigarh).	The districts of Bhatinda, Faridkot, Fatehgarh Sahib, Ferozepur, Ludhiana, Mansa, Patiala, Ropar and Sangrur in

(1)	(2)	(3)
		the State of Punjab, all the districts in the State of Haryana, excluding the districts of Sonepat, Faridabad, Gurgaon and Rohtak ; all the districts of Himachal Pradesh, and the Union Territory of Chandigarh.
	(b) Public Relations Officer (Regional Passport Office, Chandigarh).	The districts of Bhatinda, Faridkot, Fatehgarh Sahib, Ferozepur, Ludhiana, Mansa, Patiala, Ropar and Sangrur in the State of Punjab ; all the districts in the State of Haryana excluding the districts of Sonepat, Faridabad, Gurgaon and Rohtak ; all the districts of Himachal Pradesh, and the Union Territory of Chandigarh.
	(c) Superintendent (Regional Passport Office, Chandigarh).	The districts of Bhatinda, Faridkot, Fatehgarh Sahib, Ferozepur, Ludhiana, Mansa, Patiala, Ropar and Sangrur in the State of Punjab ; all the districts in the State of Haryana excluding the districts of Sonepat, Faridabad, Gurgaon and Rohtak ; all the districts of Himachal Pradesh, and the Union Territory of Chandigarh." ;

(3) for serial No. 8 (ii) and entries relating thereto, the following serial number and entries shall be substituted, namely :—

"8. (ii)	(a) Passport Officer, Bareilly (Passport office, Bareilly).	The districts of Pilibhit, Sahjahanpur, Mainpuri, Agra Mathura, Aligarh, Etah, Bulandshahar, Budaun, Bareilly, Rampur, Moradabad, Nainital, Bijnor, Muzaffarnagar, Saharanpur, Garhwal, Almora, Pithoragarh, Chamoli, Tehri-Garhwal, Dehradun and Uttarakashi in the State of Uttar Pradesh.
	(b) Public Relations Officer (Passport Office, Bareilly).	The districts of Pilibhit, Sahjahanpur, Mainpuri, Agra, Mathura, Aligarh, Etah, Bulandshahar, Budaun, Bareilly, Rampur, Moradabad, Nainital, Bijnor, Muzaffarnagar, Saharanpur,

(1)	(2)	(3)
		Garhwal Almora, Pithoragarh, Chamoli, Tehri-Garhwal, Dehradun and Uttarakashi in the State of Uttar Pradesh.
	(c) Superintendent (Passport Office, Bareilly).	The districts of Pilibhit, Sahjahanpur, Mainpuri, Agra, Mathura, Aligarh, Etah, Bulandshahar, Budaun, Bareilly, Rampur, Moradabad, Nainital, Bijnor, Muzaffarnagar, Saharanpur, Garhwal, Almora, Pithoragarh, Chamoli, Tehri-Garhwal, Dehradun and Uttarakashi in the State of Uttar Pradesh." ;

(4) for serial No. 16 and entries relating thereto, the following serial number and entries shall be substituted, namely :—

"16	(a) (a) Passport Officer, Jammu (Passport Office, Jammu).	The State of Jammu and Kashmir.
	(b) Assistant Passport Officer (Passport Office Jammu).	The State of Jammu and Kashmir.
	(c) Public Relations Officer (Passport Office, Jammu).	The State of Jammu and Kashmir.
	(d) Superintendene (Passport Office, Jammu).	The State of Jammu and Kashmir.
	(ii) Passport Collection, Centre, Srinagar.	"

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 819, dated 14th December, 1994.

MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION

G.S.R. 863 (E).—*(New Delhi, the 14th December, 1994).*—In exercise of the powers conferred by section 83 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following rules further to amend the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, namely :—

1. (1) These rules may be called the Standards of Weights and Measures (Packaged Commodities) Third Amendment Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Third Schedule to the Standards to Weights and Measures (Packaged Commodities) Rules, 1977 (hereinafter referred to as the said rules),

(i) for item 10, the following item shall be substituted, namely :—

"10. Edible oils, vanaspati, ghee, butter oil 10g, 100g, 200g, 500g, 1kg 2kg, 5kg and thereafter in multiples of kg. If the net quantity is declared by volume the same number in millilitres or litres, as the case may be.

If the net quantity is declared by volume then the equivalent quantity in terms of mass to be declared in bracket, in same size of letters/numerals, or vice versa."

(ii) item 11 and entries relating thereto shall be deleted.

3. In the fifth Schedule in the said rules, for serial number 10-A and entries relating thereto the following shall be substituted, namely :—

"10A. Edible oils, vanaspati ghee and butter oils.—Weight or volume".

4. Any manufacturer or packer shall not continue the declaration of net quantity by weight without its equivalent in volume or vice versa beyond the 31st January, 1995.

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 473, dated 5th September, 1994.

MINISTRY OF COMMERCE

No. 691(E).—(*New Delhi, the 5th September, 1994*).—In exercise of the powers conferred by Section 33 of the Marine Products Export Development Authority Act, 1972 (13 of 1972), the Central Government makes the following rules further to amend the Marine Products Export Development Authority Rules, 1972, namely :—

1. (1) These rules may be called the **Marine Products Export Development Authority (Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Marine Products Export Development Authority Rules, 1972 in rule 3, in Sub-rule (2), in Clause (a) for the word "Mysore", the word "Karnataka" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 547, dated 28th October, 1994.

MINISTRY OF FINANCE

No. 779 (E).—(*New Delhi, the 28th October, 1994*).—In exercise of the powers conferred by sub-section (3) of section 1 of the Chit Funds Act, 1982 (40 of 1982), the Central Government hereby appoints the 1st day of November, 1994, as the date on which the provisions of the said Act, shall come into force in the State of Manipur.

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 528, dated 21st October, 1994.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

S.O. 758 (E).—(*New Delhi, the 21st October, 1994*).—In exercise of the powers conferred by section 169 of the Representation of the People Act, 1951 (43 of 1951), the Central Government after consulting the Election Commission, hereby, makes the following rules further to amend the Conduct of Elections Rules, 1961 namely :—

1. (1) These rules may be called the **Conduct of Elections (Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Conduct of Elections Rules, 1961, in rule 90, for the Table the following Table shall be substituted, namely :—

"TABLE

Name of States or Union Territory	Maximum limit of election expenses in any one	
	Parliamentary constituency	Assembly constituency
1	2	3
I. STATES	Rs.	Rs.
1. Andhra Pradesh	4,50,000	1,50,000
2. Arunachal Pradesh	1,50,000	10,000
3. Assam	4,15,000	1,30,000
4. Bihar	4,50,000	1,50,000
5. Goa	1,90,000	50,000
6. Gujarat	4,50,000	1,35,000
7. Haryana	4,50,000	1,35,000
8. Himachal Pradesh	4,15,000	75,000
9. Jammu & Kashmir	3,75,000	75,000
10. Karnataka	4,50,000	1,35,000
11. Kerala	4,50,000	1,35,000
12. Madhya Pradesh	4,50 000	1,35,000
13. Maharashtra	4,50.000	1,50,000
14. Manipur	3,75,000	50,000
15. Meghalaya	3,00,000	30,000
16. Mizoram	1,90,000	20,000
17. Nagaland	4,15,000	20,000
18 Orissa	4 50,000	1,35,000
19. Punjab	4,50,004	1,35,000
20. Rajasthan	4,50,000	1,35,000
21. Sikkim	1,50,000	10,000
22. Tamil Nadu	4,50,000	1,50,000
23. Tripura	4,15,000	50,000
24. Uttar Pradesh	4,50,000	15,0,000
25. West Bengal	4,50,000	1,35,000
II. UNION TERRITORIES		
1. Andaman and Nicobar Islands	1,50,000	—
2. Chandigarh	1,90.000	—
3. Dadra and Nagar Haveli	95,000	—
4. Daman and Diu	95,000	—
5. Delhi	4,15,000	95,000
6. Lakshadweep	60,000	—
7. Pondicherry	3,00,000	30,000".

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 506, dated 6th October, 1994.

MINISTRY OF SURFACE TRANSPORT

S.O. 728(E).—*(New Delhi, the 6th October, 1994).*—In exercise of the

powers conferred by sub-section (2) of section 1 of the Motor Vehicles (Amendment) Act, 1994 (54 of 1994), the Central Government hereby appoints the 14th day of November, 1994, as the date on which the said Act shall came into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 640, dated 26th December, 1994.

MINISTRY OF COMMUNICATIONS

S. O. 914 (E).—*(New Delhi, the 26th December, 1994).*—In exercise of the powers conferred by Section 21 of the Indian Post Office Act, 1898 (6 of 1898) the Central Government hereby makes the following rules further to amend the Indian Post Office Rules, 1933, namely :—

1. (1) These rules may be called the **Indian Post Office (10th Amendment) Rules 1994.**

(2) They shall come into force on the first day of January, 1995.

2. In the Indian Post Office Rules, 1933, in Part III relating to "Registration of Postal Articles", under the heading "1-Inland Postal Articles", in rule 66B, in clause (2), the following shall be added at the end namely ;—

"**Proof of delivery charges in Speed Post.**—Proof of delivery of all Inland Speed Post articles booked under National Network and point to point service shall be optional. A fee @ Rs. 10 (Rupees Ten only) per Speed Post article shall be charged over and above the existing speed post charges".

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 452, dated 18th October, 1994.

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

G.S.R. 756 (E).—*(New Delhi, the 18th October, 1994).*—In exercise of the powers conferred by sub-section (1) read with clauses (d), (e) and (f) of sub-section (2) of section 35 and clause (c) of section 36 of the Administrative Tribunals Act, 1985 (13 of 1985), the Central Government hereby makes the following rules further to amend the Central Administrative Tribunal (Procedure) Rules, 1987, namely :—

1. (1) These rules may be called the **Central Administrative Tribunal (Procedure) Second Amendment Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Administrative Tribunal (Procedure) Rules, 1987,—

(a) rule 3 shall be re-numbered as sub-rule (1) thereof ;

(b) in sub-rule (1) as so re-numbered, in the second proviso,—

(i) in clause (a), the portion "However, the final order shall be in English" shall be omitted ;

(ii) after clause (b), the following clause shall be inserted, namely :—

"(c) the Benches located in "Region A" as defined in clause (f) of rule 1 of the Official Languages (Use for Officials purposes of the Union) Rules, 1976 may, in their discretion, make final orders either in Hindi or in English."

(c) after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted, namely :—

"(2) Notwithstanding anything contained in sub-rule (1), where a

final order is made in Hindi, an authenticated English translation thereof shall simultaneously be prepared and kept on record."

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 431, dated 18th October, 1995.

MINISTRY OF HOME AFFAIRS

G.S.R. 755 (E).—*(New Delhi, the 18th October, 1995)*.—In exercise of the powers conferred by section 44 of the Arms Act, 1959 (54 of 1959), the Central Government hereby makes the following rules further to amend the Arms Rules, 1962, namely :—

1. (1) These rules may be called the Arms (Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Arms Rules, 1962,—

In Schedule II, against item No. 3, in Column 7, for the words "State Government", appearing against the categories of arms/ammunition—(a) I(b), I(c) referred to in Column 3, the words "District Magistrate" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), dated 20th May, 1994.

SECURITIES AND EXCHANGE BOARD OF INDIA

G.S.R. 472 (E).—*(Dated 20th May, 1994)*.—In exercise of the powers conferred by sub-section (1) of section 15, read with section 29 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Central Government, in consultation with the Comptroller and Auditor-General of India, hereby makes the following rules, namely :—

1. **Short title and commencement.**—(1) These rules may be called the **Securities and Exchange Board of India (Form of Annual Statement of Accounts and Records) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

(a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992) ;

(b) "Annexure" means an annexure appended to the form ;

(c) "Form" means a form appended to these rules ;

(d) All other words and expressions used in these rules, but not defined and defined in the Act, shall have the same meaning respectively assigned to them in the Act,

3. **Annual statement of accounts and other relevant records.**—At the expiration of a period of twelve months ending with March 31 of every year, the Board shall prepare with reference to that period, a balance-sheet, income and expenditure account and receipt and payment account as on the last working day of that period in the forms as specified below :

(a) Balance-sheet in Form "A".

(b) Income and expenditure account in Form "B".

(c) Receipt and Payment account in Form "C".

4. **Maintenance of accounts, etc.**—The Board shall preserve the balance-sheet, income and expenditure account and receipt and payment account

prepared under rule 3 for a minimum period os five years.

5. **Authorised signatory.**—The balance-sheet, income and expenditure account and receipt and payment account mentioned in rule 3 shall be signed by the chairman and an officer authorised by the Board.

FORM A

Form of balance-sheet as at 31st March of the year.....

Liabilities	Figures for the previous year	Figures for the current year	Assets	Figures for the previous year	Figures for the current year
	Rs. P.	Rs. P.		Rs. P.	Rs. P.
1. General fund (see Note 5)			1. Fived assets (see Note 1)		
1·1 Corpus contribution, (see Note 5)			Gross block		
(a) At the beginning of the year			Less : depreciation		
(b) Additions during the year			Net block		
(c) At the end of the year			2. Investment (see Note 2) atcost in.		
1.2. Initial authorisation fees received from :			(a) Securities of Central and State Government		
(a) Merchant bankers			(b) Units of UTI		
(b) Mutual funds			(c) Stocks, shares bonds and debentures		
(c) Brokers			(d) Deposits and convertible debentures with banks		
(d) Sub-brokers			(e) Others (specify type of instrument, if amount exceeds 5 per cent of total assets)		
(e) Investment advisers			3. Current assets loans and advances (see Note 4)		
(f) Debentures trustees			(a) Deposits		
(g) Others			(b) Advances recoverable in cash or kind or for value to be received		
1.3 Reserve & funds			(c) Other current assets		
(a) General reserve					
(b) Excess of income over expenditure					
(b) Other reserves					
2. Gifts, grants, donations and benefication					
(a) From Government					

Liabilities	Figures for the previous year	Figures for the current year	Assets	Figures for the previous year	Figures for the current year
	Rs. P.	Rs. P.		Rs. P.	Rs. P.
(b) From others			(d) Cash in hand (e) Cash in bank (f) Sundry debtors		
3. Loans (a) Secured (specify type of security) (b) Unsecured					
4. Current liabilities and provisions : (a) Sundry creditors (b) Other liabilities (c) Provisions : Provision for doubtful debts and advances Provision for depletion in value of investment (d) Others					
5. Sinking fund (see below the line of income and expenditure account)					

Notes :

1. The information relating to fixed assets is to be given in annexure I.

2. Market value of investment should also be reflected in brackets.

3. The information relating to current assets, loans and advanced is to be given in annexure II.

4. Details of contingent liabilities should be indicated here.

5. Details of general fund and corpus contribution are to be given in the annexure III.

6 All annexures to balance-sheet and notes to accounting policy form part of account.

ANNEXURE—I

Annexure I (attached to and forming part of balance-sheet as on 31st March, 19.....)

Fixed assets (in Rs.)

Sl. No.	Description	Gross block				Depreciation				Net block	
		Cost as on 1-4-19..	Additions during year	Deductions during year	Cost as 31-3-19....	As on 1-4-19..	For the year	Adjustment	As on 31-31-9..	As on 31-3-19..	As on 31-3 19.
		(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1.	Building premises										
2.	Office equipment										
3.	Vehicles										
4.	Furniture and fixture										
5.	Others, if any										

ANNEXURE II

Annexure II (attached to and forming part of balance-sheet as at 31st March .....)

(in rupees)

Current assets, loans and advances :

(i) Deposits ;

—for premises .....

—with others

(ii) Advances recoverable in cash or in kind or for value to be received ;

—Advances on capital account .....

—Other advances .....

—Prepaid expenses .....

—Interest accrued, but not due .....

(iii) Other current assets ;

—Income receivable .....

—Others .....

(iv) Cash and bank balance ;

—Cash on hand .....

—Cheques on hand .....

—Remittances in transit .....

—Balance with scheduled bank :

(a) on current account .....

(b) on deposit account .....

—Balance with non-scheduled banks :

(a) on current account .....

(b) on deposit account .....

ANNEXURE III

Annexure III (attached to and forming part of balance-sheet as at 31st March .....)

Details of contingent liabilities

PART B

Form of income and expenditure for the period from 1st April ..... year to 31st March of the..... year

Expenditure	Figures for the previous year	Figures for the current year	Income	Figures for the previous year	Figures for the current year
	Rs. P.	Rs. P.		Rs. P.	Rs. P.
1. Reserch and consultation fee			1. Listing fees contribution from stock exchanges (on accrual basis)		
2. Seminars, conference, publications, etc.			2. Registration fees (on accrual basis) from :		
3. Rent and user fees			(a) Merchant bankers		
4. Payment to and provision for employees (see Note 1)			(b) Mutual funds		

Expenditure	Figures for the previous year	Figures for the current year	Income	Figures for the previous year	Figures for the current year
	Rs. P.	Rs. P.		Rs. P.	Rs. P.
5. Establishment expenses (see Note 2)			(c) Brokers		
6. Interest (see Note 5)			(d) Sub-brokers		
7. Depreciation			(e) Investment advisors		
8. Development expenditure			(f) Debenture trustees		
9. Promotional expenditure			(g) Others		
10. Excess of income over expenditure carried down			3. Annual fees from :		
			(a) Merchant bankers		
			(b) Mutual funds		
			(c) Brokers		
			(d) Sub-brokers		
			(e) Investment advisors		
			(f) Debenture trustees		
			(g) Others		
			4. Renewal fees (on accrual basis) from :		
			(a) Merchant bankers		
			(b) Mutual funds		
			(c) Brokers		
			(d) Sub-brokers		
			(e) Investment advisors		
			(f) Debenture trustees		
			(g) Others		
			5. Seminars, conferences and publications		
			6. Income on investments		
			7. Miscellaneous income		
General reserves carried to balance-sheet			Excess of expenditure over income brought down.....		
Sinking fund					

Note :

1. The information relating to payment to and provision for employees is to be given in Annexure IV.

2. The information relating to establishment expenses is to be given in Annexure V

3. The information relating to interest is to be given in Annexure VI.

4. The information relating to significant accounting policies is to be given in Annexure VII.

5. All annexures to income and expenditure account and information relating to significant accounting policies form part of account.

ANNEXURE IV

Annexure IV (attached to and forming part of Income and Expenditure Account for the year..... .....)

Payments to and provision for employees :	(in rupees)
—Salaries, allowances, wages and bonus	.....
— Contribution to provident fund etc.	.....
—Gratuity	.....
—Staff welfare expenses	.....

ANNEXURE V

Annexure V (attached to and forming part of Income and Expenditure Account for the year.....)

1. Establishment expense :	(in Rupees)
—Maintenance of buildings and premises	.....
—Maintenance of equipment	.....
—Electricity	.....
—Insurance	.....
—Rates and taxes	.....
— Printing and stationery	.....
Postage, telegraphs, telephones, etc.	.....
—Travelling and conveyance	.....
—Legal and professional charges	.....
—Advisory committee meeting expenses	.....
—Investor education expenses	.....
—Audit fees	
— Other expenses (specify type of expenses if amount exceeds 5 per cent. of gross income/receipts)	

ANNEXURE VI

Annexure VI (attached to and forming part of Income and Expenditure Account for the year.....)

Interest :	(in Rupees)
—To Government	.....
—To banks	.....
—To others	.....

ANNEXURE VII

Annexure VII (attached to and forming part of Income and Expenditure Account for the year .....)

Significant accounting policies

FORM C

Receipt and Payments Account for the year ended.....

Receipts	Figures for the Previous year	Figures for the current year	Payments	Figures for the previous year	Figures for the current year
	Rs p.	Rs. p.		Rs. p.	Rs. p.
1. To balance b/d : (a) Cash at bank (b) Cash on hand			1. By research and consultation fees		
2. To listing fees contribution from stock exchanges			2. By seminars, conferences, publications, etc.		
3. To registration fees from : (a) Merchant bankers (b) Mutual funds (c) Brokers (d) Sub-brokers (e) Investment advisors (f) Debenture trustees (g) Others			3. By rent and user fees		
4. To annual fees from (a) Merchant bankers (b) Mutual funds (c) Brokers (d) Sub-brokers (e) Investment advisors (f) Debenture trustees (g) Others			4. By payment to and provisions for employees		
5. To renewal fees from : (a) Merchant bankers (b) Mutual funds (c) Brokers (d) Sub-brokers (e) Investment advisors (f) Debenture trustees			5. By establishment expenses		

Receipts	Figures for the previous year	Figures for the current year	Payments	Figures for the previous year	Figures for the current year
	Rs. p.	Rs. p.		Rs. p.	Rs. p.
(g) Others					
6. To seminars, conferences and publications			6. By interest		
7. To income on investments			7. By purchase of assets		
8. To miscellaneous income			8. By investments		
9. To loans			9. By deposits by parties		
10. To gifts, grants, etc.			10 By advances		
11. To sale of assets			11. By balance c/d		
			(i) Cash at bank		
			(ii) Cash in hand		

[Notification F. No. 20/23/SE/92]

Published in the Gazette of India, Extraordinary, dated 14th July, 1994.

SECURITIES AND EXCHANGE BOARD OF INDIA

LE/7/94.—*(dated 14th July, 1994).*—In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board with the previous approval of the Central Government, hereby makes the following regulations, namely :—

CHAPTER 1

Preliminary

1. **Short title and commencement.**—(1) These regulations may be called the Securities and Exchange Board of India (Bankers to an Issue) Regulations, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.**—In these regulations, unless the context otherwise requires :

(a) "enquiry officer" means any officer of the Board, or any other person, having experience in dealing with the problems relating to the securities market, who is authorised by the Board under Chapter V ;

(b) "form" means a form specified in Schedule I ;

(c) "inspecting authority" means one or more persons appointed by the Reserve Bank of India to exercise powers conferred under Chapter IV ;

(d) "Reserve Bank" means the Reserve Bank of India established under

section 3 of the Reserve Bank of India Act, 1934 ;

(e) "Rules" means Securities and Exchange Board of India (Bankers to an Issue) Rules, 1994 ;

(f) words and expressions used and not defined in these regulations but defined in the Act and the rules shall have the meanings respectively assigned to them in the Act or the rules as the case may be.

CHAPTER II

Registration of bankers to an issue

3. Application for grant of certificate.—(1) An application by a scheduled bank for grant of a certificate as banker to an issue shall be made to the Board in Form A.

(2) Notwithstanding anything contained in sub-regulation (1), any application made prior to the coming into force of these regulations containing such particulars or as near thereto as mentioned in Form A shall be treated as an application made in pursuance of sub-regulation (1) and dealt with accordingly.

4. Application to conform to the requirements.—Subject to the provisions of sub-regulation (2) of regulation 3, any application, which is not complete in all respects and does not conform to the instructions specified in the form, shall be rejected :

Provided that, before rejecting any such application, the applicant shall be given an opportunity to remove within the time specified such objections as may be indicated by the Board.

5. Furnishing of information, clarification and personal representation.—(1) The Board may require the applicant to furnish further information or clarification regarding matters relevant to the activity of a banker to an issue for the purposes of disposal of the application.

(2) The applicant officer shall, if so required, appear before the Board for personal representation through an officer duly authorised in this regard by the applicant.

6. Consideration of application.—The Board shall take into account for considering the grant of a certificate, all matters which are relevant to the activities relating to banker to an issue and in particular whether the applicant fulfils the following requirements, namely :—

(a) the applicant has the necessary infrastructure, communication and data processing facilities and manpower to effectively discharge its activities ;

(b) the applicant or any of its directors is not involved in any litigation connected with the securities market and which has an adverse bearing on the business of the applicant or has not been convicted of any economic offence ;

(c) the applicant is a scheduled bank ;

(d) grant of certificate to the applicant is in the interest of investors.

7. Procedure for registration.—(1) The Board on being satisfied that the applicant is eligible shall grant a certificate in Form B and send an intimation to the applicant.

(2) On the grant of a certificate, the applicant shall be liable to pay the fees in accordance with Schedule II.

8. Renewal of certificate.—(1) Three months before the expiry of the period of certificate, the banker to an issue may, if he so desires, make an

application for renewal in Form A.

(2) The application for renewal, under sub-regulation (1), shall be dealt with in the same manner as if it were an application made under sub-regulation (1) of regulation 3 for grant of a certificate.

(3) The Board on being satisfied that the applicant fulfils the requirements specified in regulation 6 for renewal of certificate shall grant a certificate in Form B and send an intimation to the applicant.

(4) On the grant of a certificate, the applicant shall be liable to pay the fees in accordance with Schedule II.

9. Procedure where registration is not granted.— (1) Where an application for grant of a certificate under regulation 3 or of renewal under regulation 8, does not satisfy the requirements set out in regulation 6, the Board may reject the application after giving an opportunity of being heard.

(2) The refusal to grant or renew registration shall be communicated by the Board within thirty days of such refusal to the applicant stating therein the grounds on which the application has been rejected.

(3) Any applicant may, being aggrieved by the decision of the Board, under sub-regulation (1), apply within a period of thirty days from the date of receipt of such intimation to the Board for reconsideration of its decision.

(4) The Board shall reconsider an application made under sub-regulation (3) and communicate its decision as soon as possible in writing to the applicant.

10. Effect of refusal to grant certificate.—Any scheduled bank whose application for a certificate has been refused by the Board shall on and from the date of the receipt of the communication under sub-regulation (2) of regulation 9 cease to carry on any activity as banker to an issue.

11. Payment of fees and the consequences of failure to pay fees.—(1) Every applicant eligible for grant of a certificate shall pay such fees in such a manner and within the period specified in Schedule II.

(2) Where the applicant fails to pay the fees as provided in sub-regulation (1) read with Schedule II, the Board may suspend the registration certificate, whereupon the applicant shall cease to carry on any activity as a banker to an issue for the period during which the suspension subsists.

CHAPTER III

General Obligations And Responsibility

12. Maintenance of books of account, records and the documents.— (1) Every banker to an issue shall maintain the following records with respect to :—

(a) the number of applications received, the names of the investors, the dates on which the applications were received and the amount so received from the investors ;

(b) the time within which the applications received from the investors were forwarded to the body corporate or registrar to an issue, as the case may be ;

(c) dates and amount of refund monies paid to the investors ;

(d) dates, names and amount of dividend/interest warrant paid to the investors.

(2) Every banker to an issue shall intimate to the Board the place

where the records and documents mentioned in sub-regulation (1) are kept.

(3) The banker to an issue shall preserve the records and documents specified in sub-regulation (1) for a minimum period of three years.

13. **Furnishing of information to the Board.**—Every banker to an issue shall furnish to the Board when required the following information, namely :—

(a) the number of issues for which he was engaged as a banker to an issue ;

(b) the number of applications and details of the application monies received by the banker to an issue ;

(c) the dates on which the applications received from the investors were forwarded to the body corporate or registrar to an issue ;

(d) the dates on which and the amount refunded to the investors ;

(e) the payment or dividend/or interest warrants to the investors.

14. **Agreement with bodies corporate**—(1) Every banker to an issue shall enter into an agreement with the body corporate for whom it is acting as banker to an issue.

(2) The agreement referred to in sub-regulation (1) shall contain the following clauses, namely :—

(a) the number of centres at which the applications and application monies of an issue of a body corporate will be collected from the investors ;

(b) the time within which the statement regarding the applications and application monies received from the investors investing in an issue of a body corporate will be forwarded to the registrar to an issue or the body corporate, as the case may be ;

(c) that a daily statement will be sent by the designated controlling branch of the bankers to the issue to the registrar to an issue indicating the number of applications received on that date from the investors investing in the issue of a body corporate, and the amount of application money received.

15 **Board to be informed of any disciplinary action taken by the Reserve Bank.**—Every banker to an issue shall inform the Board forthwith if any disciplinary action is taken by the Reserve Bank against the banker to an issue only in relation to issue payment work :

Provided that if as a result of any such action, the banker to an issue is prohibited from carrying on the activities,the certificate shall be deemed to have been supended or cancelled, as the case may be.

16. **Code of conduct.**—Every banker to an issue shall abide by the code of conduct as specified in Schedule III.

CHAPTER IV

Procedure for Inspection

17. **Inspection of banker to an issue.**—The Board may request the Reserve Bank of India to undertake inspecion of the books of account, records and documents of the banker to an issue for any of the purposes specified in regulation 18.

18. **Purpose of inspection.**—The purposes referred to in regulation 17 may be as follows, namely :—

(a) to ensure that the books of account are being maintained in the manner required ;

(b) that the provisions of the Act, rules, regulations are being compli-

ed with ;

(c) to investigate into the complaints received from investors, body corporate or any other person on any matter having a bearing on the activities of the banker to an issue ; and

(d) to investigate into such matters as may be required by the Board.

19. **Procedure for inspection.**—The Reserve Bank shall on receipt of a request from the Board as soon as possible take steps to undertake inspection of the banker to an issue for such purposes as may be required by the Board in such manner as it may deem fit.

20. **Obligations of banker to an issue on inspection.**—(1) It shall be the duty of every director, proprietor, partner, officer and employee of a banker to an issue, who is being inspected, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with the statements and information relating to his activities as a banker to an issue within such time as the Reserve Bank may require.

(2) The banker to an issue shall allow the inspecting authority to have reasonable access to the premises occupied by such banker to an issue or by any other person on his behalf and also extend reasonable facility for examining any books, records, documents and computer data in the possession of the banker to an issue or any such other person and also provide copies of documents or other materials which, in the opinion of the Reserve Bank of India, are relevant for the purposes of the inspection.

(3) The inspecting authority, in the course of inspection, shall be entitled to examine or record statements of any principal officer, manager, director, partner, proprietor and employee of the banker to an issue.

(4) It shall be the duty of every director, proprietor, partner, officer or employee of the banker to an issue to give to the inspecting authority all assistance in connection with the inspection which the banker to an issue may reasonably be expected to give.

21. **Submission of report to the Board.**—The Reserve Bank of India shall, as soon as may be possible, furnish to the Board a copy of the inspection report together with the copies of relevant documents in support of the observations made by the inspecting authority.

22. **Communication of findings, etc., to the banker to an issue.**—(1) The Board shall after consideration of the inspection report communicate the findings to the banker to an issue to give him an opportunity of being heard before any action is taken by the Board on the findings of the inspecting authority.

(2) On receipt of the explanation, if any, from the banker to an issue, the Board may call upon the banker to an issue to take such measures as the Board may deem fit in the interest of the securities market and for due compliance with the provisions of the Act, rules and regulations.

CHAPTER V

Procedure for action in case of default

23. **Liability for action in case of default.**—(1) A banker to an issue who—

(a) fails to comply with any conditions subject to which certificate has been granted ;

(b) contravenes any of the provisions of the Act, rules or regulations ;

shall be liable to any of the penalties specified in sub-regulation (2).

(2) The penalties referred to in sub-regulation (1) may be either :—

(a) suspension of registration ; or

(b) cancellation of registration,

24. **Suspension of registration.**—A penalty of suspension of registration of a banker to an issue may be imposed where :—

(i) the banker to an issue violates the provisions of the Act, rules and regulations ;

(ii) the banker to an issue—

(a) fails to furnish any information relating to his activity as banker to an issue as required by the Board ;

(b) furnishes wrong or false information ;

(c) does not furnish information as required by the Board under regulation 13 ;

(iii) the banker to an issue fails to resolve the complaints of the investors fails to give a satisfactory reply to the Board in this behalf ;

(iv) the banker to an issue is guilty of misconduct or improper or unbusinesslike or unprofessional conduct which is not in accordance with the code of conduct specified in Schedule III ;

(v) the banker to an issue fails to pay the fees ;

(vi) the banker to an issue does not carry out his obligations as specified in the regulations.

25. **Cancellation of registration.**—A penalty of cancellation of registration of a banker to an issue may be imposed where :—

(i) the financial position of the banker to an issue deteriorates to such an extent that the Board is of the opinion that his continuance as banker to an issue is not in the interest of investors ;

(ii) the banker to an issue is guilty of fraud, or is convicted of a criminal offence ; and

(iii) in case of repeated defaults of the nature mentioned in regulation 24 provided that the Board furnishes the reasons for cancellation in writing.

26. **Manner of making order of suspension and cancellation.**—No order of penalty of suspension or cancellation, as the case may be, shall be imposed except after holding an enquiry in accordance with the procedure specified in regulation 27.

27. **Manner of holding enquiry before suspension or cancellation.**—(1) For the purpose of holding an enquiry under regulation 26 the Board may appoint an enquiry officer

(2) The enquiry officer shall issue to the banker to an issue a notice at the registered office or the principal place of business of the banker to an issue.

(3) The banker to an issue may, within thirty days from the date of receipt of such notice, furnish to the enquiry officer a reply together with copies of documentary or other evidence relied on by it.

(4) The enquiry officer shall give a reasonable opportunity of hearing to the banker to an issue to enable it to make submissions in support of reply made under sub-regulation (3).

(5) Before the enquiry officer, the banker to an issue may appear through any person duly authorised by the banker to an issue.

Provided that no lawyer or advocate shall be permitted to represent

the banker to an issue at the enquiry :

Provided further that where a lawyer or an advocate has been appointed by the Board as a presenting officer under sub-regulation (6) it shall be lawful for the banker to an issue to presents its case through a lawyer or advocate.

(6) If it is considered necessary, the enquiry officer may ask the Board to appoint a presenting officer to present its case.

(7) The enquiry officer shall, after taking into account all relevant facts and submissions made by the banker to an issue, submit a report to the Board and recommend the penalty to be imposed as also the grounds on the basis of which the proposed penalty is justified.

28. **Show cause notice and order.**—(1) On receipt of the report from the enquiry officer, the Board shall consider the same and issue a show-cause notice as to why the penalty as proposed by the enquiry officer should not be imposed.

(2) The banker to an issue shall within twenty one days of the date of the receipt of the show-cause notice send a reply to the Board.

(3) The Board after considering the reply to the show-cause notice, if received, shall as soon as possible but not later than thirty days from the receipt of the reply, if any, pass such order as it deems fit.

(4) Every order passed under sub-regulation (3 shall be self-contained and give reasons for the conclusions stated therein including justification of the penalty imposed by that order

(5) The Board shall send a copy of the order under sub-regulation (3) to the banker to an issue.

29. **Effect of suspension and cancellation of registration of banker to an issue.**—(1) On and from the date of the suspension, the banker to an issue shall cease to carry on any activity as a banker to an issuse during the period of suspension.

(2) On and from the date of cancellation the banker to an issue shall with immediate effect cease to carry on any activity as a banker to an issue.

30. **Publication of order of suspension.**—The order of suspension or cancellation of certificate passed under sub-regulation (3) of regulation 28 shall be published in at least two daily newspapers by the Board.

31. **Appeal to the Central Government.**—Any person aggrieved by an order of the Board may prefer an appeal to the Central Government.

SCHEDULE I-FORMS

Form A

[Regulation 3

Securities and Exchange Board of India (Bankers to an Issue) Regulations, 1994

Application For Grant/Renewal of Certificate of Registration as Bankers to the Issue

Name :.....

Name of person to contact :.....

Designation :.....

Telephone No. :.....

1. Applicants must submit a completed application form together with appropriate supporting documents to the Securities and Exchange Board of

India.

8. It is important that this application form should be read in conjunction with rules and regulations and the code of conduct for the bankers to an issue.

9. Applications for registration will only be considered provided all questions are answered.

4. Answers must be typed/printed.

5. Information which needs to be supplied in more details may be written on separate sheets which should be attached to the application form.

6. All signatures must be original.

PART I

General Information

1. Applicants details :

1.1 Name :

1.2 Address of registered office of the bank :

Pin code :..... Telephone No. :.....

Telex No. :..... Fax No. :.....

Address for correspondence :

Pin code :..... Telephone No. :.....

Telex No. :..... Fax No. :.....

1.3 Application to Securities and Exchange Board of India for other intermediary activity

2. Organisation structure :

2.1 Date and place of incorporation

Day	Month	Year	Place

2.2 Organisation chart ; General organisation and specific activity (i.e., applied for registration). Also state the functional responsibility :

2.3 Particulars of all directors and key management personnel (for other than public sector banks only)

Name, qualification and experience :

Ownership details : (date of appointment) other directorship : (Name and date of appointment) previous positions held :

2.4 Number of employees :

2.5 List of major shareholders (holding 5 per cent. or more voting shares) name shareholding pattern, i.e., No. of shares and its per cent. to total capital :

3. Details of infrastructural facilities (To be used for specific activity) :

4.1 Data processing capacity :

(a) Inhouse :

(b) Others :

3.2 Computer facility :

(a) Hardware configuration :

(b) Software used :

3.3 Communication and manpower facilities available at controlling branch head office and at various branches :

4. Financial information :

4.1 Capital structure

(Rs. in lakhs)

	Year prior to the preceding year of current year	Preceding year	Current year
(a) Paid-up capital			
(b) Free reserves (excluding revaluation reserves)			
(c) Total (a) + (b)			
(d) Deposits			
(e) Working funds			

4.2 Net profit	First year	Second year	Third year

4.3 Income (from specific activity of banker to an issue

5. Other information (For specific activity of banker to an issue) :

5.1 Details of all settled and pending dispute

Nature of dispute	Name of the party	Pending / settled

5.2 Indicate involvement in any economic and criminal offences in the last three years (for directors)

5.3 Any other information considered relevant to the nature of services rendered by the company

5.4 Name and address of the auditors

PART II

Specific information as to banker to an issue

6. Business information :

6.1 Indicate type of activities carried on/proposed to be carried on. (Collection bankers for ; application money and/or allot-

ment money, refund bankers, paying bankers for payment of dividend/interest warrant) :

6.2 Describe modus operandi for handling applications, processing them and for co-ordination between branches, remittance of money, collection and accounting for funds, function of refund bankers :

6.3 Enclose a copy of typical contract entered into with the client for the services rendered :

6.4 Enclose list of centres at which the bank has branches out of centres notified by the Ministry of Finance :

7. Experience :

7.1 Experience as bankers to the issue (period to be indicated) (services provided during last year) :

7.2 List of clients (corporate clients only) :

(For specific activity)

Name Services rendered

Declaration

The declaration must be signed by two authorised officials of the applicant.

We hereby apply for registration. We warrant that we have truthfully and fully answered the questions above and provided all the information which might reasonably be considered relevant for the purposes of our registration.

We hereby declare that the information furnished is true and correct and neither the applicant nor any of its directors and key-executive personnel have been involved in or convicted of economic offences during the last three years or by the Reserve Bank for violation of the provisions of the Reserve Bank of India Act, 1934, and the Banking Regulation Act, 1949.

For and on behalf of.....

(Name of the applicant)

.....	.....
Director/officer	Director/officer
.....	.....
Name in block letters	Name in block letters
Place :	Place :
Date :	Date :

FORM B

(Regulation 7)

Securities and Exchange Board of India (Bankers to an Issue) Regulations, 1994

CERTIFICATE OF REGISTRATION

1. In exercise of the powers conferred by sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992, read with the rules and regulations made thereunder the Board hereby grants a certificate of registration to.....as a banker to an issue subject to the conditions

total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

44. **Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty :

Provided that no such order shall be made after the expiration of one year from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under this order.

45. **Amendment of Act 22 of 1934.**—In section 5 of the Aircrafts Act, 1934, in sub-section (2),—

(a) in clause (b), for the words and figures "the International Airports Authority Act, 1971 (43 of 1971), or the National Airports Authority Act, 1985", (64 of 1985), the words and figures "the Airports Authority of India Act, 1994" shall be substituted ;

(b) proviso to clause (b) shall be omitted.

46. **Repeal and saving.**—(1) On and from the appointed date,—

(i) the International Airports Authority Act, 1971 (43 of 1971) and the National Airports Authority Act, 1985 (64 of 1985), shall stand repealed ;

(ii) the International Airports Authority and the National Airports Authority constituted under the aforesaid Acts shall cease to exist.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken under the aforesaid Acts so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

THE APPROPRIATION (VOTE ON ACCOUNT) ACT, 1994

The following Act of Parliament received the assent of the President on the 22nd March, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, No. 28, dated March 22, 1994.

INDIAN PARLIAMENT ACT NO. 21 OF 1994

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of India for the services of a part of the financial year 1994-95.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :—

1. Short title.—This Act may be called the Appropriation (Vote on Account) Act, 1994.

(Text omitted)

THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT, 1994

The following Act of Parliament received the assent of the President on September 20, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, dated 20th September, 1994.

INDIAN PARLIAMENT ACT NO. 57 OF 1994

An Act to provide for the regulation of the pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide ; and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :—

CHAPTER I
Preliminary

1. Short title and commencement.—(1) This Act may be called the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

"Statement of Objects and Reasons.—It is proposed to prohibit pre-natal diagnostic techniques for determination of sex of the foetus leading to female foeticide. Such abuse of techniques is discriminatory against the female sex and affects the dignity and status of women. A legislation is required to regulate the use of such techniques and to provide deterrent punishment to stop such inhuman act.

2. The Act, inter alia, provides for,—

(i) prohibition of the misuse of pre-natal diagnostic techniques for determination of sex of foetus, leading to female foeticide ;

(ii) prohibition of advertisement of pre-natal diagnostic techniques for detection or determination of sex ;

(iii) permission and regulation of the use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders ;

(iv) permitting the use of such techniques only under certain conditions by the registered Institutions ; and

(v) punishment for violation of the provisions of the proposed legislation."

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Appropriate Authority" means the Appropriate Authority appointed under Section 17 ;

(b) "Board" means the Central Supervisory Board constituted under Section 7 ;

(c) "Genetic Counselling Centre" means an institute, hospital, nursing home or any place, by whatever name called, which provides for genetic counselling to patients ;

(d) "Genetic Clinic" means a clinic, institute, hospital, nursing home or any place, by whatever name called, which is used for conducting pre-natal diagnostic procedures ;

(e) "Genetic Laboratory" means a laboratory and includes a place where facilities are provided for conducting analysis or tests of samples received from Genetic Clinic for pre-natal diagnostic tests ;

(f) "Gynaecologist" means a person who possesses a post-graduate qualification in gynaecology and obstetrics ;

(g) "Medical geneticist" means a person who possesses a degree or diploma or certificate in medical genetics in the field of pre-natal diagnostic techniques or has experience of not less than two years in such field after obtaining,—

(i) any one of the medical qualifications recognised under the Indian Medical Council Act, 1956 (102 of 1956) ; or

(ii) a post-graduate degree in biological sciences ;

(h) "paediatrician" means a person who possesses a post-graduate qualification in paediatrics ;

(i) "pre-natal diagnostic procedures" means all gynaecological or obstetrical or medical procedures such as ultrasonography, foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to a Genetic Laboratory or Genetic Clinic for conducting pre-natal diagnostic tests ;

(j) "pre-natal diagnostic techniques" includes all pre-natal diagnostic procedures and pre-natal diagnostic tests ;

(k) "pre-natal diagnostic tests" means ultrasonography or any test or analysis of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked disease ;

(l) "prescribed" means prescribed by rules made under this Act ;

(m) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of Section 2 of the Indian Medical Council Act, 1956 (102 of 1956), and whose name has been entered in a State Medical Register ;

(n) "regulations" means regulations framed by the Board under this Act.

CHAPTER II

Regulation of Pre-natal Diagnostic Techniques

4. **Regulation of pre-natal diagnostic techniques.**—On and from the commencement of this Act,—

(1) no place including a registered Genetic Counselling Centre or

Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the purposes specified in clause (2) and after satisfying any of the conditions specified in clause (3);

(2) no pre natal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely ;—

(i) chromosomal abnormalities ;

(ii) genetic metabolic diseases ;

(iii) haemoglobinopathies ;

(iv) sex-linked genetic diseases ;

(v) congenital anomalies ;

(vi) any other abnormalities or diseases as may be specified by the Supervisory Board ;

(3) no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satified that any of the following conditions are fulfilled, namely :—

(i) age of the pregnant woman is above thirty-five years ;

(ii) the pregnant woman has undergone two or more spontaneous abortions or foetal loss ;

(iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals ;

(iv) the pregnant woman has a family history of mental retardation or physical deformities such as spasticity or any other genetic disease ;

(v) any other condition as may be specified by the Central Supervisory Board :

(4) no person, being a relative or the husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purpose specified in clause (2)

5. **Written consent of pregnant woman and prohibition of communicating the sex of foetus.**—(1) No person referred to in clause (2) of Section 3 shall conduct the pre-natal diagnostic procedures unless—

(a) he has explained all known side and after effects of such procedures to the pregnant woman concerned ;

(b) he has obtained in the prescribed form her written consent to undergo such procedures in the language which she understands ; and

(c) a copy of her written consent obtained under clause (b) is given to the pregnant woman.

(2) No person conducting pre-natal diagnostic procedure shall communicate to the pregnant woman concerned or her relatives the sex of the foetus by words, signs or in any other manner.

6. **Determination of sex prohibited.**—On and from the commencement of this Act,—

(a) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centre, Laboratory or Clinic, pre-natal diagnostic techniques including ultrasonography, for the purpose of determining the sex of a foetus ;

(b) no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultrasonography for the purpose of determining the sex of a foetus.

CHAPTER IV

Central Supervisory Board

7. **Constitution of Central Supervisory Board.**—(1) The Central Government shall constitute a Board to be known as the Central Supervisory

Board to exercise the powers and perform the functions conferred on the Board under this Act.

(2) The Board shall consist of—

(a) The Minister in charge of the Ministry or Department of Family Welfare, who shall be the Chairman, ex officio ;

(b) the Secretary to the Government of India in charge of the Department of Family Welfare, who shall be the Vice-Chairman, ex officio ;

(c) two members to be appointed by the Central Government to represent the Ministries of Central Government in charge of Woman and Child Development and of Law and Justice, ex officio ;

(d) the Director General of Health Services of the Central Government, ex officio ;

(e) ten members to be appointed by the Central Government, two each from amongst—

(i) eminent medical geneticists ;
(ii) eminent gynaecologists and obstetricians ;
(iii) eminent paediatricians ;
(iv) eminent social scientists ; and
(v) representatives of women welfare organisations ;

(f) three women Members of Parliament, of whom two shall be elected by the House of the People and one by the Council of States ;

(g) four members to be appointed by the Central Government by rotation to represent the States and the Union territories, two in the alphabetical order and two in the reverse alphabetical order :

Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory ;

(h) an officer, not below the rank of a Joint Secretary or equivalent of the Central Government, in charge of Family Welfare, who shall be the Member-Secretary, ex officio.

8. **Term of office of members.**—(1) The term of office of a member, other than an ex officio member, shall be,—

(a) in case of appointment under clause (e) or clause (f) of sub-section (2) of Section 7, three years ; and

(b) in case of appointment under clause (g) of the said sub-section, one year.

(2) If a casual vacancy occurs in the office of any other members, whether by reason of his death, resignation or inability to discharge his function owing to illness or other incapacity, such vacancy shall be filled by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

(3) The Vice-Chairman shall perform such functions, as may be assigned to him by the Chairman from time to time.

(4) The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.

9. **Meetings of the Board.**—(1) The Board shall meet at such times and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings,

as may be provided by regulations :

Provided that the Board shall meet at least once in six months.

(2) The Chairman and in his absence the Vice-Chairman shall preside at the meetings of the Board,

(3) If for any reason the Chairman or the Vice-Chairman is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Members other than ex officio members shall receive such allowance, if any, from the Board as may be prescribed.

10. **Vacancies, etc., not to invalidate proceedings of the Board.**—No act or proceedings of the Board shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Board ; or

(b) any defect in the appointment of a person acting as a member of the Board ; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

11. **Temporary association of persons with the Board for particular purposes.**—(1) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advise it may desire in carrying out any of the provisions of this Act,

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose.

12. **Appointment of officers and other employees of the Board.**—(1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Board may, subject to such regulations as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary :

Provided that the appointment of such category of officers, as may be specified in such regulations, shall be subject to the approval of the Central Government,

(2) Every officer or other employee appointed by the Board shall be subject to such conditions of service and shall be entitled to such remuneration as may be specified in the regulations

13 **Authentication of orders and other instruments of the Board.**—All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member Secretary or any other officer of the Board authorised in like manner in this behalf.

14. **Disqualifications for appointment as member.**—A person shall be disqualified for being appointed as a member if, he—

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude ; or

(b) is an undischarged insolvent ; or

(c) is of unsound mind and stands so declared by a competent court ; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government ; or

(e) has, in the opinion of the Central Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his functions as a member ; or

(f) has, in the opinion of the Central Government, been associated with the use or promotion of pre-natal diagnostic technique for determination of sex.

15. **Eligibility of member for reappointment.**—Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for reappointment as such member.

16. **Functions of the Board.**—The Board shall have the following functions, namely :—

(i) to advise the Government on policy matters relating to use of pre-natal diagnostic techniques ;

(ii) to review implementation of the Act and the rules made thereunder and recommend changes in the said Act and rules to the Central Government ;

(iii) to create public awareness against the practice of pre-natal determination of sex and female foeticide ;

(iv) to lay down code of of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics ;

(v) any other functions as may be specified under the Act.

CHAPTER V

Appropriate Authority and Advisory Committee

17. **Appropriate Authority and Advisory Committee.**—(1) The Central Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for each of the Union territories for the purposes of this Act.

(2) The State Government shall appoint, by notification in the Official Gazette, one or more Appropriate Authorities for the whole or part of the State for the purposes of this Act having regard to the intensity of the problem of pre-natal sex determination leading to female foeticide.

(3) The officers appointed as Appropriate Authorities under sub-section (1) or sub-section (2) shall be,—

(a) when appointed for the whole of the State or the Union territory, of or above the rank of the Joint Director of Health and Family Welfare ; and

(b) when appointed for any part of the State or the Union territory, of such other rank as the State Government or the Central Government, as the case may be, may deem fit.

(4) The Appropriate Authority shall have the following functions, namely :—

(a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic ;

(b) to enforce standards prescribed for the Genetic Counselling Centre,

Genetic Laboratory and Genetic Clinic ;

(c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action ; and

(d) to seek and consider the advise of the Advisory Committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration.

(5) The Central Government or the State Government, as the case may be, shall constitute an Advisory Committee for each Appropriate Authority to aid and advise the Appropriate Authority in the discharge of its functions, and shall appoint one of the members of the Advisory Committee to be its Chairman.

(6) The Advisory Committee shall consists of—

(a) three medical experts from amongst gynaecologists, obstetricians, paediatricians and medical geneticists ;

(b) one legal expert ;

(c) one officer to represent the department dealing with information and publicity of the State Government or the Union territory, as the case may be ;

(d) three eminent social workers of whom not less than one shall be from amongst representatives of women's organizations.

(7) No person who, in the opinion of the Central Government or the State Government, as the case may be, has been associated with the use or promotion of pre-natal diagnostic technique for determination of sex shall appointed as a member of the Advisory Committee.

(8) The Advisory Committee may meet as and when it thinks fit or on the request of the Appropriate Authority for consideration of any application for registration or any complaint for suspension or cancellation of registration and to give advise thereon ;

Provided that the period intervening between any two meetings shall not exceed the prescribed period.

(9) The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee in the discharge of its functions shall be such as may be prescribed.

CHAPTER VI

Registration of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics

18. Registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics.— (1) No person shall open any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic after the commencement of this Act unless such Centre, Laboratory or Clinic is duly registered separately or jointly under this Act.

(2) Every application for registration under sub-section (1), shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3) Every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged, either partly or exclusively, in counselling or conducting pre-natal diagnostic techniques for any of the purposes mentioned in section 4, immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement.

(4) Subject to the provisions of section 6, every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged in counselling or conducting pre-natal diagnostic techniques shall cease to conduct any such counselling or technique on the expiry of six months from the date of commencement of this Act unless such Centre, Laboratory or Clinic has applied for registration and is so registered separately or jointly or till such application is disposed of, whichever is earlier.

(5) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be registered under this Act unless the Appropriate Authority is satisfied that such Centre, Laboratory or Clinic is in a position to provide such facilities, maintain such equipment and standards as may be prescribed.

19. **Certificate of registration.**- (1) The Appropriate Authority shall, after holding an enquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder and having regard to the advise of the Advisory Committee in this behalf, grant a certificate of registration in the prescribed form jointly or separately to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, as the case may be.

(2) If, after the inquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act or the rules, it shall, for reasons to be recorded in writing, reject the application for registration.

(3) Every certificate of registration shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.

(4) The certificate of registration shall be displayed by the registration Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic in a conspicuous place at its place of business.

20. **Cancellation and suspension of registration.**—(1) The Appropriate Authority may suo motu, or on complaint, issue a notice to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that there has been a breach of the provisions of this Act or the rules, it may, without prejudice to any criminal action that it may take such Centre, Laboratory or Clinic, suspend its registration for such period as it may think fit or cancel its registration, as the case may be.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section (1).

21. **Appeal.**—The Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic may, within thirty days from the date of receipt of the order

of suspension or cancellation of registration passed by the Appropriate Authority under section 20, prefer an appeal against such order to—

(i) the Central Government, where the appeal is against the order of the Central Appropriate Authority ; and

(ii) the State Government, where the appeal is against the order of the State Appropriate Authority,

in the prescribed manner.

CHAPTER VII
Offences and Penalties

21. **Prohibition of advertisement relating to pre natal determination of sex and punishment for contravention.**—(1) No person, organisation, Genetic Counselling Centre Genetic Laboratory or Genetic Clinic shall issue or cause to be issued any advertisement in any manner regarding facilities of the pre natal determination of sex available at such Centre, Laboratory, Clinic or any other place.

(2) No person or organisation shall publish or distribute or cause to be published or distributed any advertisement in any manner regarding facilities of pre-natal determination of sex available at any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other place.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

Explanation.—For the purposes of this section, "advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas.

23. **Offences and penalties.**—(1) Any medical geneticist, gynecologist, registered medical practitioner or any person who owns a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic or is employed in such a Centre, Laboratory or Clinic and renders his professional or technical services to or at such a Centre, Laboratory or Clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or rules made thereunder shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

(2) The name of the registered medical practitioner who has been convicted by the court under sub-section (1), shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of two years for the first offence and permanently for the subsequent offence.

(3) Any person who seeks the aid of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or of a medical geneticist, gynaecologist or registered medical practitioner for conducting pre-natal diagnostic techniques on any pregnant woman (including such woman unless she was compelled to undergo such diagnostic techniques) for purposes other than those specified in clause (2) of section 4, shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction with impri-

sonment which may extend to five years and with fine which may extend to fifty thousand rupees.

24. Presumption in the case of conduct of pre-natal diagnostic techniques.—Notwithstanding anything in the Indian Evidence Act, 1872 (1 of 1872), the court shall presume unless the contrary is proved that the pregnant woman has been compelled by her husband or the relative to undergo pre-natal diagnostic techniques and such person shall be liable for abetment of offence under sub-section (3) of Section 23 and shall be punishable for the offence specified under that section.

25. Penalty for contravention of the provisions of the Act or rules for which no specific punishment is provided.—Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

26. Offences by companies.—(1) Where any offence, punishable under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

27. Offence to be cognizable, non-bailable and non-compoundable.—Every offence under this Act shall be cognizable, non-bailable and non-compoundable.

28. Cognizance of offences.—(1) No court shall take cognizance of an offence under this Act except on a complaint made by—

(a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or the State Government, as the case may be, or the Appropriate Authority ; or

(b) a person who has given notice of not less than thirty days in the manner prescribed, to the Appropriate Authority, of the alleged offence and

of his intention to make a complaint to the court.

Explanation.—For the purpose of this clause, "person" includes a social organisation.

(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Where a complaint has been made under clause (b) of sub-section (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.

CHAPTER VIII
Miscellaneous

29. **Maintenance of records.**— (1) All records, charts, forms, reports, consent letters and all other documents required to be maintained under this Act and the rules shall be preserved for a period of tw years or for such period as may be prescribed :

Provided that, if any criminal or other proceedings are instituted against any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the records and all other documents of such Centre, Laboratory or Clinic shall be preserved till the final disposal of such proceedings.

(2) All such records shall, at all reasonable times, be made available for inspection to the Appropriate Authority or to any other person authorised by the Appropriate Authority in this behalf.

30. **Power to search and seize records, etc.**—(1) If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, such Authority or any officer authorised thereof in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance, if any, as such authority or officer considers necessary, such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and examine any record, register, document, book, pamphlet, advertisement or any other material object found therein and seize the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

31. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorised by the Central or State Government, or by the Authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

32. **Power to make rules.**—(1) The Central Government may make rules for carrying out the provisions of this Act.

(2) In particular and without prejudice, to the generality of the foregoing power, such rules may provide for—

(i) the minimum qualifications for persons employed at a registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under clause (1) of Section 3 ;

(ii) the form in which consent of a pregnant woman has to be obtained under Section 3 ;

vote cast in favour of the resolution are not less than three times the number of the votes, if any, cast against the resolution by shareholders so entitled and voting.

4E. Conversion of equity shares into redeemable preference shares.—(1) The Central Government may, at any time after the commencement of the Industrial Development Bank of India (Amendment) Ordinance, 1994 by notification in the Official Gazette, convert such number of equity shares held by it not exceeding fifty crores as it may decide into redeemable preference shares.

(2) The redeemable preference shares referred to in sub-section (1) shall—

(a) carry such fixed rate of dividend as the Central Government may specify at the time of such conversion, and

(b) neither be transferable nor carry any voting rights.

(3) The redeemable preference shares referred to in sub-section (1) shall be redeemed by the Development Bank within three years from the date of such conversion in such instalments and in such manner as the Board may determine.".

5. Amendment of section 5.—In section 5 of the principal Act,—

(a) for sub-sections (1) and (2), the following shall be substituted, namely :—

"(1) The general superintendence, direction and management of the affairs and business of the Development Bank shall vest in a Board of Directors which may exercise all powers and do all such acts and things, as may be exercised or done by the Development Bank and are not by this Act expressly directed or required to be done by the Development Bank in general meeting.

(2) The Board may direct that any power exerciseable by it under this Act shall also be exerciseable in such cases and subject to such conditions, if any, as may be specified by it, by the chairman, managing director or the whole-time director." ;

(b) sub-section (4) shall be omitted.

6. Amendment of section 6.—In section 6 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The Board shall consist of the following, namely :—

(a) a chairman and a managing director appointed by the Central Government :

Provided that the same person may be appointed to function both as chairman and as managing director ;

(b) one whole-time director appointed by the Central Government on the recommendation of the Board ;

(c) two directors who shall be officials of the Central Government nominated by the Central Government ;

(d) three directors from amongst persons having special knowledge of, and professional experience in, science, technology, economics, industry, banking, industrial cooperatives, law industrial finance, investment, accoun-

tancy, marketing or any other matter, the special knowledge of, and professional experience in, which would, in the opinion of the Central Government, be useful to the Development Bank, nominated by the Central Government ; and

(c) such number of directors elected, in the prescribed manner, by shareholders other than the Central Government, whose names are entered on the register of shareholders of the Development Bank ninety days before the date of the meeting in which such election takes place on the following basis, namely :—

(i) where the total amount of equity share capital issued to such shareholders is ten per cent. or less of the total issued equity capital, two directors ;

(ii) where the total amount of equity share capital issued to such shareholders is more than ten per cent. but less than twenty five per cent. of the total issued equity capital, three directors ; and

(iii) where the total equity share capital issued to such shareholders is twenty five per cent. or more of the total issued equity capital, four, directors :

Provided that until the assumption of charge by the elected directors under clause (c), the Central Government may at any time nominate such number of directors, not exceeding four, from amongst persons having special knowledge of, and professional experience in, science, technology, economics, industry, banking, industrial cooperatives, law, industrial finance, investment, accountancy, marketing or any other matter, the special knowledge of, and professional experience in, which would, in the opinion of the Central Government, be useful to the Development Bank for carrying out its functions." ;

(b) in sub-sections (2) and (3), for the words "the chairman and the managing director", the words "the chairman, the managing director and the whole-time director" shall be substituted ;

(c) in sub-sections (2A) and (3A), for the words "the chairman or the managing director" wherever they occur, the words "the chairman, the managing director or the whole-time director" shall be substituted ;

(d) for sub-section (4A), the following sub-section shall be substituted, namely :—

"(4A) Subject to the provisions of sub-section (4),—

(a) every director nominated under clause (d) of sub-section (1) shall hold office for such term not exceeding three years as the Central Government may specify in this behalf and thereafter until his successor assumes office, and shall be eligible for re-nomination ;

Provided that no such director shall hold office continuously for a period exceeding six years ; and

(b) every director elected under clause (c) of sub-section (1) shall hold office for such term not exceeding until his successor assumes office, and shall be eligible for re-election ;

Provided further that no such director shall hold office continuously for a period exceeding six years ;" ;

(e) after sub-section (4A), the following sub-section shall be inserted,

namely :—

"(4B) The shareholders other than the Central Government, may, after giving to the director a reasonable opportunity of being heard in the manner as may be prescribed, by resolution passed by majority of the voter of such shareholders holding in the aggregate not less than one-half of the share capital held by such shareholders, remove any director elected under clause (c) of sub-section (1) and elect another director in his place to fill the vacancy so caused." ;

(f) for sub-section (5), the following sub-section shall be substituted, namely :—

"(5) (i) A meeting of the Board shall be held at least once every three months and atleast four meetings shall be held every year and the meetings may be held at such places as may be prescribed ;

(ii) Notice of every meeting of the Board shall be given in writing to every director for the time being in India, and at his usual address in India to every other director.

(5A) Subject to the provisions contained in this Chapter, the Board may meet at such times and places and shall observe such rules of procedure in regard to transaction of its business including the manner of adoption of resolutions as may be prescribed.".

7. **Omission of section 6A.**—Section 6A of the principal Act shall be omitted.

8. **Insertion of new sections 6B and 6C.**—After section 6A of the principal Act, the following sections shall be inserted, namely ;—

"6B. **Disqualifications of directors.**—(1) A person shall not be eligible for being elected director under clause (c) of sub-section (1) section 6, if he—

(a) has been found to be of unsound mind by a court of competent jurisdiction and the finding is in force ;

(b) is an undischarged insolvent ;

(c) has applied to be adjudicated as an insolvent and his application is pending ;

(d) has been convicted by a court of any offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence ; or

(e) has not paid any call in respect of shares of the Development Bank held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call.

6C. **Vacation of office by director.**—(1) The office of a director shall become vacant if he—

(a) becomes subject to any of the disqualifications mentioned in section 6B ; or

(b) resigns his office by giving notice in writing under his hand and the resignation is accepted ; or

(c) absents himself from three consecutive meetings of the Board without obtaining leave of absence from the Board.

(2) Notwithstandidg anything in clause (a) of sub-section (1), the disqualifications referred to in that clause shall not take effect—

(a) for thirty days from the date of the adjudication, sentence or order ;

(b) where any appeal or petition is preferred within thirty days aforesaid against the adjudication, sentence or conviction resulting in the sentence or order until the expiry of seven days from the date on which such appeal or petition is disposed of ; or

(c) where within the seven days aforesaid, any further appeal or petition is preferred in respect of the adjudication, sentence, conviction or order and the appeal or petition, if allowed, would result in the removal of the disqualification, until such further appeal or petition is disposed of.".

9. **Amendment of section 7.**—In section 7 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely ;—

"(1) The Board shall constitute an Executive Committee consisting of the chairman, the Managing Director, whole-time director and such other directors as it may deem fit.".

20. **Amendment of section 8.**—In section 8 of the principal Act, for the proviso, the following proviso shall be substituted, namely ;—

"Provided that no fees shall be payable to the chairman, if he is appointed whole-time or to the managing director or to the whole time director or to any other director who is an official of the Government."

11. **Amendment of section 9.**—In section 9 of the principal Act, in sub-section (1), in clauses (a), (c), (ca), (f) and (g), for the words "which may be notified by the Central Government in this behalf", wherever they occur, the words" which may be approved by the Board in this behalf" shall be substituted.

12. **Amendment of section 11.**—In section 11 of the principal Act, in sub-section (1),—

(a) for clause (d), the following clause shall be substituted, namely ;—

"(d) accept deposits on such terms as may be approved by the Board.".

13. **Amendment of section 12.**—In section 12 of the principal Act, sub-sections (3) and (4) shall be omitted.

14. **Insertion of new Chapters IV-A and IV-B.**—After section 13 of the principal Act, the following shall be inserted, namely ;—

"CHAPTER IV-A

Shares

13A. **Free transferability of shares.**—(1) Save as otherwise provided in sub-section (2), the equity shares of the Development Bank shall be freely transferable.

(2) Nothing contained in sub-section (1) shall entitle the Central Government to transfer any shares held by it in the Development Bank if such transfer will result in reducing the equity shares held by it to less than fifty-one per cent. of the issued equity capital of the Development Bank.

13B. **Register of share-holders.**—(1) The Development Bank shall keep

at its head office a register, in one or more books, of the shareholders and shall enter therein the following particulars so far as they may be available :—

(i) the names, addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number ;

(ii) the date on which each person is so entered as a shareholder ; and

(iv) such other particulars as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the Development Bank to keep the register of the shareholders in computer floppies or diskettes subject to such safe-guards as may be prescribed.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), a copy of, or extract from, the register of shareholders certified to be a true copy under the hand of an officer of the Development Bank authorised in this behalf, shall, in all legal proceedings, be admissible in evidence.

13C. **Trust not to be entered on the register of shareholders.**—Notwithstanding anything contained in section 13B, no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders or be receivable by the Development Bank.

13D. **Board's right to refuse registeration of transfer of shares.**—(1) The Board may refuse to register the transfer of any shares in the name of the transferee on any one or more of the following grounds, and on no other ground, namely :—

(a) the transfer of the shares is in contravention of the provisions of this Act or regulations made thereunder or any other law ;

(b) the transfer of the shares, in the opinion of the Board, is prejudicial to the interests of the Development Bank or to the public interest ;

(c) the transfer of shares is prohibited by an order of a court, tribunal or any other authority under any law for the time being in force.

(2) The Board shall, before the expiry of two months from the date on which the instrument of transfer of shares of Development Bank is lodged with it for the purpose of registration of such transfer, not only form, in good faith, its opinion as to whether such registration ought not or ought to be refused on any of the grounds referred to in sub-section (1) but also.—

(a) if it has formed the opinion that such registration ought not be so refused, effect such registration ; and

(b) if it is has formed the opinion that such registration ought to be refused on any of the grounds mentioned in sub-section (1), intimate the transferor and the transferee by notice in writing.

(3) An appeal against the order of refusal of the Board under sub-section (2) shall lie to the Central Government and the procedure for filing and hearing of such appeal shall be in accordance with the rules made by the Central Government in this behalf.

13E. **Shares to be securities under Indian Trusts Act, 1882.**- Notwithstanding anything contained in the Indian Trusts Act, 1882 (2 of 1882), the shares of the Development Bank shall be deemed to be included among the securities enumerated in section 20 of the said Act.

CHAPTER IV-B

Meetings and Proceedings

13F. **Annual general meeting.**—(1) The Development Bank shall each year hold, in addition to any other meetings, a general meeting as its annual general meeting and shall specify the meeting as such in the notices calling it ; and not more than fifteen months shall elapse between the date of one annual general meeting and that of the next :

Provided that the Development Bank may hold the first annual general meeting within a period of six months from the date on which it allots shares for the first time to public for subscription :

Provided further that the Central Government may extend the time within which any annual general meeting shall be held by a period not exceeding three months.

(2) Every annual general meeting shall be called for a time during business hours, on a day that is not a public holiday, and shall be held either at head office or at some other place within the city or town in which the head office is situate.

Explanation.—For the purposes of this section, "public holiday" means a public holiday within the meaning of the Negotiable Instruments Act, 1881 (26 of 1881) :

Provided that no Sunday shall be deemed to be such a holiday in relation to any meeting ;

Provided further that no day declared by the Central Government to be a public holiday shall be deemed to be such a holiday, in relation to any meeting, unless the declaration was notified before the issue of the notice convening such meeting.

13G. **Restriction on exercising of voting right**—Every shareholder of the Development Bank holding equity shares shall have a right to vote in respect of such shares on every resolution and his voting right on a poll shall be in proporation to his share of the paid up equity capital of the Development Bank ;

Provided however, that no shareholder, other than the Central Government shall be entitled to exercise voting rights in respect of any equity shares held by him in excess of ten per cent. of the issued equity capital.

13H. **Matters to be discussed and procedure in annual general meeting.**—(1) The shareholders present at an annual general meeting shall be entitled to discuss and adopt—

(a) the balance sheet and profit and loss account of the Development Bank made up to the date on which its accounts are closed and balanced ;

(b) the report of working of the Development Bank, for the period covered by the accounts ;

(c) the auditor's report on the balance sheet and accounts ;

(d) proposals for declaration of dividend and capitalisation of reserves.

(2) The share-holders present at an annual general meeting may also discuss any other matter to be transacted at such meetings in accordance with the provisions of this Act.

(3) The matters relating to—

(a) the manner in which annual general meeting or other meetings are held under this Act and the procedure to be followed there at ;

(b) the manner in which voting rights may be exercised and resolutions may be passed ; and

(c) the procedure for transaction of business at such meetings and related matters,

shall be as may be prescribed.",

15. **Amendment of section 18.**—In section 18 of the principal Act, in sub-section (3), for the words Central Government", the words "Development Bank" shall be substituted.

16. **Amendment of section 22.**—In section 22 of the principal Act, in sub-section (2), the following sub-section shall be substituted, namely :—

"(2) After making provision for bad and doubtful debts, depreciation of assets and for all other matters for which provision is necessary or expedient or which is usually provided for by bankers and for the reserve fund referred to in sub-section (1), and after transferring a part of the profits to such other reserves or funds as may be considered appropriate, the Board may out of its net profits, declare a dividend.".

17. **Amendment of section 23.**—(1) In section 23 of the principal

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The accounts of the Development Bank shall be audited by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956) who shall be appointed by the Development Bank in general meeting of the shareholders out of the panel of auditors approved by the Reserve Bank for such term and on such remuneration as the Reserve Bank may fix.".

(b) in sub-section (5), for the words "within four months from the date on which its accounts are closed and balanced", the words "within one month from the date on which the annual general meeting is held" shall be substituted.

18. **Insertion of new section 32A.**—After section 32 of the principal Act, the following section shall be inserted, namely :—

"32A. **Nomination in respect of deposits, bonds, etc.**—(1) Notwithstanding anything contained in any other law for the time being in force, where a nomination in respect of any deposits, bonds or other securities is made in the prescribed manner, the amount due on such deposits, bonds or securities shall, on the death of the depositor or holder thereof, vest in, and be payable to, the nominee subject to any right, title or interest of any other person to such deposits, bonds or securities.

(2) Any payment by the Development Bank in accordance with the provisions of sub-section (1) shall constitute a full discharge to the Development Bank of its liability in respect of such deposits, bonds or securities.".

19. Amendment of section 37.—In section 37 of the principal Act,—

(a) in sub-section (2),—

(i) in clause (a), the words "and the manner of adoption of resolutions" shall be inserted at the end ;

(ii) after clause (da), the following clauses shall be inserted, namely :—

"(db) the manner in which and the conditions subject to which shares may be held and transferred ;

(dc) matters relating to the rights of shareholders ;

(dd) the maintenance of share registers and the particulars to be entered therein ;

(de) the safeguards to be observed in the maintenance of register of shareholders on computer floppies or diskettes ;

(df) the inspection and closure of the registers and all other matters connected therewith ;

(dg) the holding and conduct of elections of directors under this Act and the determination of disputes regarding the qualification of directors ;

(dh) the manner in which general meetings shall be convened, the procedure to be followed thereat, the manner in which voting rights may be exercised, resolutions passed and business transacted in such meetings and other matters relating to meetings ;

(di) the manner in which notices may be served on shareholders or other persons ;

(dj) the manner in which nomination may be made in terms of section 192A ;" ;

(b) for sub-section (4), the following shall be substituted, namely :—

"(4) Every regulation or rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or rule or both Houses agree that the regulation or rule should not be made, the regulation or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation or rule.".

SHANKER DAYAL SHARMA,
President.

PART IV

RAJASTHAN ACTS, ORDINANCES AND NOTIFICATIONS

1995

Published in the Rajasthan Gazette, Extraordinary, Part IV (Kha), dated 28th December, 1994.

THE RAJASTHAN PANCHAYATI RAJ (THIRD AMENDMENT) ORDINANCE, 1994

ORDINANCE NO. 6 OF 1994

An Ordinance further to amend the Rajasthan Panchayati Raj Act, 1994.

Whereas the Rajasthan Legislative Assembly is not in session and the Governor of the State of Rajasthan is satisfied that the circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor hereby promulgates in the forty-fifth Year of the Republic of India, the following Ordinance, namely :—

1. **Short title and commencement.**—(1) This ordinance may be called the Rajasthan Panchayati Raj (Third Amendment) Ordinance, 1994.

(2) It shall come into force at once.

2. **Insertion of new sections 18-A and 18-B, Rajasthan Act No. 13 of 1994.**—After section 18 of the Rajasthan Panchayati Raj Act, 1994 (Rajasthan Act No. 13 of 1994), hereinafter referred to as the principal Act, the following new sections shall be inserted, namely :—

"18-A. **Making false declaration.**—If any person makes in connection with—

(a) the preparation, revision or correction of an electoral roll, or

(b) the inclusion or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing which is false and which either knows or believes to be false or does not believe to be true, he shall be punishable, with imprisonment for a term which may extend to one year, or with fine, or with both.

18-B. **Breach of official duty in connection with the preparation etc. of electoral rolls.**—(1) If any Electoral Registration Officer or other person required by or under this Act to perform any official duty in connection with the preparation, revision or correction of an electoral roll or the inclusion

or exclusion of any entry in or from that roll, is without reasonable cause guilty of any act or omission in breach of such official duty, he shall be punishable with fine which may extend to five hundred rupees.

(2) No suit or other legal proceeding shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No Court shall take cognizance of any offence punishable under sub-section (1) unless there is a complaint made by order of, or under authority from the State Election Commission or the Chief Electoral Officer other Collector concerned.".

3. **Amendment of section 22. Rajasthan Act No. 13 of 1994.**—In section 22 of the principal Act, the expression "125", shall be inserted between the expression "The provisions of sections" and the expression "126".

4. **Insertion of section 117-A, Rajasthan Act No. 13 of 1994.**—After section 117 of the principal Act, the following new section shall be inserted, namely :—

"117-A. **Jurisdiction of civil courts barred.**—No civil court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a constituency ; or

(b) to question the legality of any action taken by or under the authority of an electoral registration officer, or any decision given by any authority appointed under this Act for the revision of such roll ; or

(c) to question the legality of any action taken or of any decision given by the returning officer or by any other person appointed under this Act in connection with an election,".

5. **Insertion of new sections 119-A and 119 B, Rajasthan Act No. 13 of 1994.**—After section 119 of the principal Act, the following new sections shall be inserted, namely :—

"119-A. **Staff of Local authorities to be made available.**—Every local authority in the State shall, when so requested by the Chief Electoral Officer make available to any electoral registration officer such staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral rolls.

119 B. **Officers and Staff deemed to be on deputation to State Election Commission.**—The officers or staff employed in connection with the preparation, revision and connection of the electoral rolls for, and the conduct of, all elections under this Act shall be deemed to be on deputation to the State Election Commission for the period during which they are so employed and such officers and staff shall, during that period be, subject to the control and superintendance of the State Election Commission.".

BALIRAM BHAGAT
Governor of Rajasthan.

Published in the Rajasthan Gazette Extraordinary, Part IV-Ga dated December 30, 1994.

THE RAJASTHAN PANCHYATI RAJ (FOURTH AMENDMENT) ORDINANCE, 1994

RAJASTHAN ORDINANCE NO. 7 OF 1994

An Ordinance further to amend the Rajasthan Panchayati Raj Act, 1994.

Whereas the Rajasthan Legislative Assembly is not in session and the Governor of the State of Rajasthan is satisfied that the circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of Constitution of India, the Governor hereby promulgates in the Forty-fifth Year of the Republic of India, the following Ordinance, namely :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Rajasthan Panchayati Raj (Fourth Amendment) Ordinance, 1994.

(2) It shall be deemed to have come into force with effect from 23rd April, 1994.

2, **Amendment of section 19, Rajasthan Act No. 13 of 1994.**—In section 19 of the Rajasthan Panchayati Raj Act, 1994 (Rajasthan Act No 13 of 1994), the existing proviso (iv) shall be substituted by the following, namely :—

"(iv) the birth during the period from the date of commencement of this Act, hereinafter in this proviso referred to as the date of such commencement, to 27th November, 1995, of an additional child shall not be taken into consideration for the purpose of the disqualification mentioned in clause (1) and a person having more than two children (excluding the child, if any, born during the period from the date of such commencement to 27th November, 1995) shall not be disqualified under that clause for so long as the number of children he had on the date of commencement of this Act does not increase."

BALIRAJ BHAGAT,
Governor of Rajasthan

Published in the Rajasthan Gazette Extraordinary, Part IV-Ga, dated 23th December, 1994

LABOUR DEPARTMENT

G.S.R. 104.—*(Jaipur, December 23, 1994)*.—In exercise of powers conferred by section 40 of the Rajasthan Shops and Commercial Establishment Act, 1958 (Act No. 3 of 1958) the State Government hereby makes the following rules further to amend the Rajasthan Shops and Commercial Establishments Rules, 1959, the same having been previously published in the Rajasthan Gazette. Extraordinary, Part IV (Kha), dated 31-8-94 at page 41 & 42, as required by sub-section 4 of section 40 of the said Act, namely :—

RULES

1. **Short title.**—These rules may be called the Rajasthan Shops and Commercial Establishment (Amendment) Rules, 1994.

2. **Amendment of rule 4.**—In sub-rule (2) of rule 4 of the Rajasthan Shops and Commercial Establishment Rules, 1959, the following proviso shall be added, namely :—

"Provided that at the opinion of the employer of shop or establishment, one time renewal of the shop or establishment shall also be allowed on payment of fees equivalent to times of the prescribed annual fee".

Published in the Rajasthan Gazette, Extraordinary, Part IV (Ga), dated December 24, 1994.

FINANCE DEPARTMENT (Group IV)

S. O. 304.—*(Jaipur, December 23, 1994)*.—In exercise of the powers conferred by Section 26 of the Rajasthan Sales Tax Act, 1954 (Rajasthan Act No. 29 of 1954), the State Government hereby with immediate effect makes the following amendment in the Rajasthan Sales Tax Rules, 1955 and with reference to the proviso to sub-section (4) of the said Section, hereby orders that previous publication of these Rules is dispensed with, as the State Government is satisfied that circumstances exist which render it necessary to take immediate action, namely :—

AMENDMENT

In the said rules,—

The existing clause (c) of sub-rule (8) of Rule 7 shall be substituted by the following; namely :—

"(c) Notwithstanding that the period for which the Chairman or the member of the Tribunal may have been appointed either initially or for an extended term as provided in Clause (a) above has not expired.

(i) the Advocate member shall not continue as such member after attaining the age of 58 years, and

(ii) the Chairman and the member belonging to and appointed from Indian Administrative Service, Rajasthan Higher Judicial Service, Rajasthan Admistrative Service and Rajasthan Commercial Taxes shall not continue as such Chairman or Member after attaining the age of superannuation as provided in the Service Rules to which he belongs."

Published in the Rajasthan Gazette, Extraordinary, Part IV (Ga), dated November 22, 1994.

RURAL DEVELOPMENT & PANCHAYATI RAJ DEPARTMENT

G. S. R, 92.- *(Jaipur, November 15, 1994)*.—In exercise of the powers conferred by Section 102 read with Section 17 (5) of the Rajasthan Panchayati Raj Act, 1994 (Rajasthan Act No. 13 of 1994) and of all other powers enabling it in this behalf, the State Government hereby makes the following amendments in the Rajasthan Panchayati Raj (Election) Rules, 1994.

AMENDMENT

In the said rules,

1. in rule 2 (IV), the words "preparation of Electoral Roll and" shall be added after the words "State Government for" appearing in the fourth line.

2. in the second proviso to sub-rule 2 of rule 20, the figure "15" occurring between the words "under rule" and "of the" shall be substituted by the figure "23".

3. in rule 21 (2) (d) (II), the figure "23" shall be substituted by figures "23 (2), (3) and 31".

4. in rule 27 (d), the figure "23" shall be substituted by the figure "25".

5. in rule 28 (1), the word "may" shall be added after the words "any candidate".

6. in proviso to rule 22 (3), after the words "other symbols" and before the words "not reserved" occuring in the fourth line, the words, "in

the manner laid down by the Commission out of the additional list of symbols prescribed by it, but" shall be inserted.

7. in rule 39 (2), the words "or Assistant Polling Officer" shall be added after the words "the Polling Officer" occurring in IInd line,

8. in rule 56 (5), the words "by a separate Polling Officer" occurring in IInd line shall be deleted.

9. in rule 57, figure "54" appearing in fourth line be substituted by the figure "56".

10. in rule 60 the figure "VIII" occurring in the fourth line shall be substituted by the figure "VII".

11. in Form I appended to these rules, the last part of the form begining from the words "It should be correct to read as follow" and ending with "signature or thumb impression of the Elector" be deleted.

12. in Form III appended to these rules, in the second para the word "as shall be inserted after the word "read" and befor the word "follows".

13. in Form IV appended to these rules, in the part (To be filled by the Returning Officer), in the 3rd para the words "accompanied by Shri ...." .....shall be added at the end of the para.

14. In Schedule I appended to these rules the following list of symbols shall be added and numbered as follows :

51. Jug	52. Ladder
53. Ship	54. Spade
55. Spade and Stoker	56. Spectacles
57. Stool	58. Shuttle
59. Table Fan	60. Table Lamp
61. Television	62. Telephone
63. Top	64. Trumpet
65. Two Leaves	66. Cot
67. Umbrella	68. Violin
69. Banyan Tree	70. Ball
71. Book	72. Box
73. Bridge	74. Bus
75. Camera	76. Chakki
77. Colour Box	78. Comb
79. Dholak	80. Diesel Pump
81. Door	82. Hut
83. Ice-Cream	84. Mango
85. Mooli	86. Rose Flower
87 Tractor	88. Well
89. Wheat Bali	90. Wrist Watch
91. Water Tap	92. Pine Apple
93. Cake	94. Stick
95. Motor Cycle	96. Wool
97. Ring	98. Rising Sun
99. Letter Box	100. Candles.

Published in the Rajasthan Gazette, Extraordinary, Part IV (ga), dated December 28, 1994.

DEPARTMENT OF RURAL DEVELOPMENT & PANCHAYATI RAJ

G.S.R. 105.—*(Jaipur, December 25, 1994)*.—In exercise of the powers conferred by section 102 read with section 17(3) of the Rajasthan Panchayati Raj Act, 1994 (Act No. 13 of 1994) and all other powers enabling it in this behalf, the State Government hereby makes the following amendments in the Rajasthan Panchayati Raj (Election) Rules, 1994, namely :—

Amendment

In the said rules :—

1. The following sub-rule (6) shall be added after sub-rule (5) of Rule 68, namely :—

(6) (a) The State Election Commission shall, by notification in the official gazette, specify the symbols that may be chosen by candidates at elections of the Members of Panchayat Samiti and Member of Zila Parishad and the restrictions to which their choice shall be subject to.

(b) For the candidates set up by a party which is a recognised political party in the State under the Election Symbols (Reservation and Allotment) Order, 1968 symbols reserved for that party under the said order shall be allotted, provided that such a political party sets up only one candidate per constituency.

Explanation.—To be considered a candidate set up by a recognised political party, a candidate should produce a letter to that effect signed by the President of the State unit of that party or any person authorised by him in this behalf before the time and date fixed for withdrawal of nominations specified in these rules is over.

(c) Where at any such election more nomination papers than one are delivered by a candidate, the choice of symbols made in the nomination paper first delivered, and no other choice of symbols, shall be taken into consideration even if that nomination paper has been rejected.

(d) The candidate shall present his nomination paper in Form IV-A to the Returning Officer and indicate his choice of symbol.

(e) The Returning Officer shall consider the choice of symbols expressed by the contesting candidates in their nomination papers and shall—

(i) Allot a different symbol to each contesting candidate in conformity, as far as practicable with his choice ; and

(ii) If more contesting candidates than one have indicated their preference for the same symbol, decide by lot (including computerised random draw) to which of such candidates the symbol will be allotted.

(f) The allotment by the Returning Officer of any symbol to a candidate shall be final except where it is inconsistent with any directions issued by the State Election Commission in this behalf in which case the State Election Commission may revise the allotment in such manner as it thinks fit.

2. The following sub-rule (7A) shall be added after sub-rule (7) of Rule 39,

7(A)(a) The State Government shall by notification in the official gazette, specify the symbols that may be chosen by candidates at elections of Pradhan/Up-Pradhan of Panchayat Samiti and Pramukh/Up-Pramukh of Zila Parishad and the restriction to which their choice shall be subject to ;

(b) For the candidates setup by a party which is a recognised political party in the State under the Election Symbols (Reservation and Allotment) Order, 1968 symbols reserved for that party under the said order shall be

allotted, provided that such a political party sets up only one candidate per office.

Explanation—To be considered a candidate set up by a recognised political party, a candidate should produce a letter to that effect signed by the President of the State unit of that party or any person authorised by him in this behalf before the time and date fixed for withdrawal of nomination is over.

(c) Where at any such election more nomination papers than one are delivered by a candidate, the choice of symbol made in the nomination paper first delivered, and no other choice of symbol, shall be taken into consideration even if that nomination paper has been rejected.

(d) The candidate shall present his nomination paper in Form IV-B to the Presiding Officer and indicate his choice of symbol.

(e) The Presiding Officer shall consider the choice of symbol expressed by the contesting candidates in their nomination papers and shall ;

(i) allot a different symbol to each contesting candidate in conformity, as far as practicable with his choice ; and

(ii) if more considering candidates than one have indicated their preference for the same symbol, decide by lot to which of such candidates the symbol will be allotted.

(f) The allotment by the Presiding Officer of any symbol to a candidate shall be final.

FORM IV (A)

(See rule 58)

NOMINATION PAPER

Election of Member of Panchayat Samiti/Member of Zila Parishad

Election of Member of Panchayat Samiti/Zila Parishad .....
....of District .....

I hereby give notice that I propose myself as a candidate for election as Member of Panchayat Samiti/Zila Parishad of the above Panchayat Samiti/Zila Parishad from Constituency No .....

1. Full Name.....
2. .....
3. Cast of the candidate .....

(To be filled by persons belonging to Scheduled Casts/Tribes/ OBC only.)

4. Serial Number in the voters list .....
5. Name of the Candidates father/husband .....

I, the above mentioned candidate, assent to this nomination and hereby declare :—

(a) that I have been set up as a candidate at this election by .....
.....party,

(b) that the symbols I have chosen are ;

(i) ..... (ii) .....(iii).....

I further declare that :—

(1) I am qualified to be a Member of Panchayat Samiti/Member Zila Parishad under the provisions of the Rajasthan Panchayati Raj Act, 1994.

(2) I am not subject to any of the disqualifications specified in Section 19 of the said Act.

(3) I belong/do not belong to the Scheduled Castes/Scheduled Tribes/ Other Backward Classes.

(4) that I have deposited security as required under Rule 55 (3).

Date :.....

Place; ..... Signature of the Candidate.

Note :—Please strike off which is not related.

(To be filled by the Returing Officer)

Serial Number of the Constituency of Punchayat Samiti/Zila Parishad from which the candidate proposes to seek election..... ...

Serial Number of the nomination paper for such Constituency.....

.....

This nomination was presented to me at.....(hrs.) on.....(date) by Shri/Smt /Miss..... ..... (Candidate) accompanied by Shri/Smt..... .....as identifier.

Decision Accepting or Rejecting the Nomination Paper

I have examined the nomination in accordance with the provisions of these and decide as follows :—

Place ; .....

Date ; ..... Returning Officer.

(Receipt of nomination paper)

Serial Number of Constituency from which the candidate proposes to seek election.....

Serial Number of nomination paper for such Constituency.....

.....

The nomination paper of a candidate for election as Member of Panchayat Samiti/Zila Parishad was delivered to me at..... (hrs.) on.....(date) by Shri/Smt..... ..... accompanied by Shri/Smt..... ..... as identifier

The nomination paper will be taken for scrutiny at..... (hrs.) on..... (date) .. .. at.....(place).

Date ; .....

Place ; ..... Returning Officer.

Note ;—Please Strike off which is not related.

FORM IV (B)

(See Rule 59)

Nomination Paper

Election of Pradhan/Up-Pradhan/Pramukh/Up-Pramukh of Panchayat Samiti/Zila Parishad..... ..... of District.....

I hereby give notice that I propose myself as candidate for election as Pradhan/Up Pradhan/Pramukh/Up Pramukh of the above Panchayat Samiti/Zila Parishad,

1. Full Name..... ....
2. Sex of the candidate..... .....
3. Caste of the candidate..... .....

(To be filled by persons belonging to Scheduled Castes/Tribes/OBC only.)

(c) out of the balance of the total payment for admission.	35 per cent of such payment.
(II) within the limits of any other areas.—	
(a) out of the first 100 paise of payment for admission.	20 per cent of such payment.
(b) out of the next 100 paise of payment for admission.	25 per cent of such payment.
(c) out of the balance of the total payment for admission.	35 per cent of such payment.

(7) Notwithstanding anything contained in clause (c) of sub-section (1) or any other provisions of this Act, for a period of one year commencing from the 16th September 1994 and ending on the 15th September 1995, there shall be levied, and paid by the proprietor to the State Government, the entertainment duty in respect of exhibition by cinematograph including video exhibition other than exhibition by means of any type antenna or cable television, as specified in the Table below :—

TABLE

Area (1)	Rate of entertainment duty on payment for admission fixed by the proprietor (2)	
I. Within the limits of the area of— (a) All Municipal Corporations ; (b) The Municipal Councils of Bhiwandi and Ulhasnagar ; (c) The Cantonments of Pune, Solapur, Dehu Road, Deolali, Kamptee and Kirkee ; (d) any city or town other than those referred to above having population of one lakh fifty thousand and above.	For areas specified in entries (a) to (d) both inclusive, — (i) upto 1 rupee	40 per cent of such payment for admission.
	(ii) above 1 rupee but not exceeding 2 rupees, and	45 per cent of such payment.
	(iii) above 2 rupees	50 per cent of such payment.
(II) Within the limits of cities and towns other than those referred to in sub-clause (1), having population above twenty-five thousand but below one lakh fifty thousand.	(i) upto 1 rupees	35 per cent of such payment.
	(ii) above 1 rupees but not exceeding 2 rupees, and	40 per cent of such payment.
	(iii) above 2 rupees	45 per cent of such payment.
III. Within the limits of any other area having a population upto twenty-five thousand and below.	(i) upto 1 rupee.	30 per cent of such payment.
	(ii) above 1 rupees but not exceeding 2 rupees, and	35 per cent of such payment.
	(iii) above 2 rupees.	40 per cent of such payment.

(8) Notwithstanding anything contained inclause (a) of sub-section (3) or any other provisions of this Act, for a period of one year commencing from the 16th September 1994 and ending on the 15th September 1995, in lieu of the tax payable under clause (a) of sub-section (3) in the case of exhibition by cinematograph including video exhibition but excluding exhibition by means of any type of antenna or cable television held in the places of edtertainment specified in column (2) of the Table below and situated in the areas specified in column (1) of the said Table the proprietor of such exhibition may, subject to such conditions as may be prescribed pay the amount of duty to the State Government every week as specified in the corresponding enty in column (3) thereof.

TABLE

Area (1)	Type of exhibition of Cinema (2)	Amount of duty (3)
Within the limits of the areas of— I. (a) All Municipal Corporations, Municipal Councils of Bhiwandi and Ulhasnagar. Cadtonments of Pune, Solapur, Dehu Road, Deolali, Kamptee and Kirkee.	Video exhibition	20 per cent of the gross collection capacity for a show multiplied by 90 per cent of the shows actually held.
(B) Cities and town having population of one lakh fifty thousand and above.	Permanent, quasi-permanent and touring cinemas with roof over it and video exhibitions.	20 per cent of the gross collection capacity for a show multiplied by 85 per cent of the shows actually held.
	Touring cinemas open to sky.	20 per cent of the gross collection capacity for a show multiplied by 75 per cent of the shows actually held.
II. Cities and towns having population above twenty-five thousand but below one lakh fifty thousand.	Permanent, quasi, permanent and touring cinemas with roof over it and video exhibitions.	15 per cent of the gross collection cadacity for a show multiplied by 80 per cent of the shows actually held.
	Touring cinemas open to sky.	15 per cent. of the gross collection capacity for a

(1)	(2)	(3)
		show multiplied by 65 per cent. of the shows actually held.
III. Any other areas with population upto twenty-five thousand and below.	Permanent, quasi-permanent and touring cinemas with roof over it and video exhibitions..	10 per cent. of the gross collection capacity for a show multiplied by 75 per cent. of the shows actually held.
	Touring cinemas open to sky.	10 per cent. of the gross collection capacity for a shows multiplied by 60 per cent. of the shows actually held." ;

4. **Amendment of section 3AA of Bom. I of 1923.**—In section 3AA of the principal Act, in sub-section (1),—

(a) after the words "other than" the words, brackets and figure "an amusement part, not being an amusement park which is not continued for ten years as provided by clause (b) of sub-section (3) of section 3, and" shall be inserted ;

(b) the existing proviso shall be deleted.

5. **Amendment of section 10A of Bom. I of 1923.**—In section 13A of the the principal Act,—

(a) in sub-section (1), for the existing proviso, the following proviso shall be substituted, namely :—

"Provided that,—

(a) no appeal shall be entertained by the Commissioner unless the proprietor pays the undisputed amount of the duty and penalty, if any, as assessed by the Collector ;

(b) the Commissioner may, notwithstanding anything contained in clause (a), if he deems fit, for reasons to be recorded in writing, entertain an appeal without payment of any duty and penalty, if any, as assessed by the Collector ; and the decision of the Commissioner regarding entertaining of the appeal by him shall be final." ;

(b) after sub-section (2), the following sub-section shall be inserted, namely ;—

"(2A) The Commissioner shall as far as possible decide every appeal filed under sub-section (1) within three months from the date of filing of such appeal, and in a case where it is not possible or feasible to decide the appeal within such period he shall submit a report to the State Government recording therein the reasons for such delay in deciding the appeal ",

6. **Repeal of Mah. Ord XIV of 1994 and saving.**—(1) The Bombay Entertainments Duty (Amendment) Ordinance, 1994 (Mah. Ord. XIV of 1994). is hereby repealed.

(2) Notwithstanding such repeal, anythidg done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken as the case may be, uneer the principal Act, as amended by this Act.

THE MAHARASHTRA APPROPRIATIOS (EXCESS EXPENDITURE) ACT, 1994.

The following Act or the Maharashtra Legislature having been assented to by the President/Governor on 12th December, 1994, and was published in the Maharashtra Government Cazette, Extra-ordinary, Part IV. dated 14th December, 1994.

MAHARASHTRA ACT No. L OF 1994.

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet the amounts spent on certain services during the financial year ended on the 31st day of March 1986 in excess of the amounts granted for those services and for that year.

Whereas, by virtue of Article 204 of the Constitution of India, read with Article 205 thereof. it is necessary to provide for the passing of an Appropriation Act for the authorisation of appropriation of money out of the Consolidated Fund of the State to meet the amounts spent on certain services during the financial year ended on the 31st day of March 1986 in excess of the amounts granted for those services and for that year ; It is hereby enacted in the Forth fifty Year of the Republic of India as follow :—

1. **Short title.**—This Act may be called the Maharashtra Appropriation (Excess Expenditure) Act, 1994.

THE MAHARASHTRA APPROPRIATION (SECOND EXCESS EXPENDITURE) ACT, 1994

The following Act of the Maharashtra Legislature having been assented to by the President/Governor on 12th December, 1994, and was published in the Maharashtra Government Gazette, Extra-ordinary, Part, IV, dated 14th December, 1994.

MAHARASATRA ACT, No. LI OF 1994.

An Act to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet the amounts spent on certain services during the financial year ended on the 31st day of March 1987 in excess of the amount granted for those services and for that year.

Whereas by virtue of Article 204 of the Constitution of India, read with Article 205 thereof, it is necessary to provide for the passing of an Appropriation Act for the authorisation of appropriation of moneys out of the Consolidated Fund of the State to meet the amounts spent on certain services during the financial year ended on the 31st day of March 1987 in excess of the amounts granted for those services and for that year ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follow :—

1. **Short title.**—This Act may be called the Maharashtra Appropriation (Second Excess Expenditure) Act, 1994.

(Text omitted)

THE BOMBAY VILLAGE PANCHAYATS (AMENDMENT) ACT, 1994

The following Act of the Maharashtra Legislature, having been assented to by the Governor on the 15th December 1994, was published in the Maharashtra Government Gazette, Extra-ordinary Part IV, dated 16th December 1994.

MAHARASHTRA ACT No. LII OF 1994.

An Act further to amend the Bombay Village Panchayats Act, 1958.

Whereas it is expedient further to amend the Bombay Village Panchayats Act, 1958, (Bom. III of 1959) for the purposes hereinafter appearing; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

CHAPTER I
Preliminary

1. Short title.—This Act may be called the Bombay Village Panchayats (Amendment) Act, 1994.

CHAPTER II
Amendments to the Bombay Village Panchayats Act, 1958.

2. Amendment of section 10 of Bom. III of 1959.—In section 10 of the Bombay Village Panchayats Act, 1958 (Bom. III of 1959 (hereinafter in this Chapter, referred to as " the principal Act"), in sub-section (1),—

(a) the portion beginning with the words "Subject to" and ending with the words "in this behalf" shall be deleted ;

(b) in clause (a), in sub- clause (1), for the words "State Election Commission may determine" the words "State Government may prescribe" shall be substituted

3. Insertion of section 10A in Bom. III of 1959.—After section 10 of the principal Act, the following section shall be inserted, namely :—

"10A. State Election Commission.—(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the Panchayats shall vest in the State Election Commissioner.

(2) The State Election Commissioner may, by order, delegate any of his powers and functions to any officer of the Commission or any officer of the State, Government not below the rank of Tahsildar.

(3) All the officers and members of the staff appointed or deployed for preparation of electoral rolls and conduct of election of Panchayats under this Act or the rules shall function under the superintendence, direction and control of the State Election Commissioner.

(4) Notwithstanding anything contained in this Act and the rules, the Commission may issue such special or general orders or directions which may not be inconsistent with the provisions of the Act for fair and free elections.

4. Amendment of section 12 of Bom. III of 1959.—In section 12 of the principal Act, in sub-section (1), for the words "the State Government may by general or special order" the words "the State Election Commissioner may by order" shall be substituted.

5. Amendment of section 176 of Bom. III of 1959.—In section 176 of the principal Act, in sub-section (4), the proviso shall be deleted.

CHAPTER III

Amendments to the Bombay Village Panchayats (Divisions of Village into Wards and Reservation of Seats for Women, Scheduled Castes and Scheduled Tribes) Rules, 1966.

6. Substitution of rule 1 of the Bombay Village Panchayats (Division of Village into Wards and Reservation of Seats for Women, Scheduled Castes and Scheduled Tribes Rules, 1966.— For rule 1 of the Bombay Village Panchayats (Divisions of Village into Wards and Reservation of Seats for Women, Scheduled Castes and Scheduled Tribes) Rules, 1966 (hereinafter in this Chapter, referred to as the Village Panchayats) (Division into Wards and Reservation of Seats) Rules, the following rule shall be substituted, namely :—

"1. **Short title.**— These rules may be called the Bombay Village Panchayats (Number of members, Divisions into Wards and Reservation of Seats) Rules, 1966".

7. Insertion of rule 2A in Bombay Village Panchayats (Divisions of Village into Wards and Reservation of Seats for Women, Scheduled Castes and Scheduled Tribes) Rules, 1966.—After rule 2 of the Village Panchayats (Divisions into Wards and Reservation of Seats) Rules, the following rule shall be inserted, namely :—

"2A. **Number of members to be elected in Panchayats.** - Subject to the provisions of clause (a) of sub-section (1) of section 10, the number of members to be elected by direct election in each Panchayat shall be decided on the basis of the population in a panchayat area, as specified in the table below :—

TABLE

Serial No. (1)	Population (2)	Number of members to be elected (3)
1	1,500 or less than 1,500	7
2	1,501 to 3,000	9
3	3,001 to 4,500	11
4	4,501 to 6,000	13
5	6,001 to 7,500	15
6	7,501 and above	17".

8. Substitution of rule 4 of Bombay Village Panchayats (Divisions of Village into Wards and Reservation of Seats for Women, Scheduled Castes and Scheduled Tribes) Rules, 1962.— For rule 4 of the Village Panchayats (Divisions into Wards and Reservation of seats) Rules, the following rule shall be substituted, namely :—

"4. **Manner of allotment and rotation of seats reserved for Scheduled Castes and Scheduled Tribes.**— Subject to the provisions of clauses (a) and (b) of sub-section (2) of section 10, the seats to be reserved for the Scheduled Castes and the Scheduled Tribes shall be allotted and rotated in accordance with the following principles, namely :—

(1) Where the number of seats to be reserved for the Scheduled Castes

or as the case may be, the Scheduled Tribes and the number of wards in a village is the same, then there shall be allotted to such Castes, or as the case may be, the Tribes, one seat to every ward.

(2) Where the number of seats to be reserved for the Scheduled Castes, or as the case may be, the Scheduled Tribes, is less than the number of Wards in a village, then the seats shall be allotted in descending order begining with a ward where the percentage of population of the Scheduled Castes or, as the case may be, the Scheduled Tribes with regard to the total population of such ward is the highest :

Provided that the seats to be reserved shall be rotated, in the subsequent elections, to the wards in the village in which no such seat has been reserved for such Castes or Tribes until such reservation is given to the wards in the village, by rotation in which seats are admissible for such casts or Tribes, having regard to the proportion of their population in those wards.

(3) Where the number of seats to be reserved for the Scheduled Castes, or, as the case may be, the Scheduled Tribes is more than the number of wards in a village, then, with a view to securing representation to the members of such Castes or Tribes in as many wards as possible in the village, one seat shall be allotted to each ward for such Castes or Tribes and the remaining seats shall be allotted and rotated as provided in the proviso to sub-rule (2) :

Provided that, the seats to be reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes under sub-rules (1), (2) and (3) shall be allotted and rotated only among the wards in which seats are admissible for such Castes or Tribes having regard to the proportion of their population in those wards.

(4) The allotment of seats as under sub-rules (1), (2) and (3) shall be made in such a way that at least one seat, as far as practicable, shall be kept unreserved in each ward.

Explanation.—While calculating the number of seats, the fraction of one-half or more of a seat shall be counted as one and the fraction of less than one-half shall be ignored."

9. **Substitution of rule 4-A of the Bombay Panchayats (Division of Village into Wards and Reservation of Seats for Women, Scheduled Castes and Scheduled Tribes) Rules, 1966.**—For rule 4-A of the Village Panchayats (Divisions into Wards and Reservation of seats) Rules, the following rules shall be substituted, namely :—

'4A. **Manner of allotment and rotation of seats reserved for Backward Class of citizens.**—Subject to the provisions of clause (c) of sub-section (2) of section 10, the seats to be reserved for Backward Class of citizens shall be allotted and rotated in accordance with the following principles, namely :—

(1) The seats to be reserved for the persons belonging to the category of Backward Class of citizens shall be allotted to the wards by drawing lots according to the instructions given by the State Election Commissioner from time to time ;

Provided that, the seats to be reserved shall be rotated, in the subsequent elections, to the wards in the village in which no such seats have, in the previous elections been reserved for the category of Backard Class of citizens, until such reservation is given by rotation to each of the wards in

the village :

Provided further that, while drawing lots, the seats already reserved for Scheduled Castes and Scheduled Tribes shall be excluded.

(2) After allotment of seats for the Scheduled Castes or, as the case may be, the Scheduled Tribes, if number of seats left is less than the number of seats required to be reserved for the persons belonging to the category of Backward Class of citizens then, the available number of seats shall be so allotted to such category that at least one seat, so far as practicable, is left unreserved in each ward.

Explanation.—While calculating the number of seats the fraction of one-half or more of a seat shall be counted as one and the fraction of less than one-half shall be ignored.

4B. Manner of allotment and rotation of seats reserved for woman.—Subject to the provisions of clause (d) of sub-section (2) of section 10, the seats to be reserved for women shall be allotted and rotated in accordance with the following principles, namely :—

(1) The seats to be reserved for Women belonging to the Scheduled Castes, the Scheduled Tribes or, as the case may be, the category of Backward Class of citizens shall be allotted to the different wards where the seats are so reserved for such Caste, Tribes or the category, as the case may be, by drawing lots according to the instructions given by the State Election Commissioner from time to time from among such reserved seats ;

Provided that, such seats shall be rotated only among such wards where the seats are to be reserved for such Castes, Tribes or category ;

Provided further that, while rotating such seats, in different wards in Village, at the time of subsequent elections, the wards where such seats were already reserved in earlier elections for women from such Castes, Tribes or category, as the case may be, shall be excluded until all the wards where such seats are required to be reserved, have been given such reservation by rotation.

(2) Once seats are reserved in the appropriate wards for women belonging to the Scheduled Castes, Scheduled Tribes or the category of Backward Class of citizens, then the remaining seats for women shall be reserved in the different wards by drawing lots :

Provided that, while rotating such seats in different wards at the time of the subsequent elections, the wards in which the seats were reserved in the earlier elections for women shall be excluded untill such reservation is given to all the wards in the village by rotation;

(3) Where only one seat is reserved either for the Scheduled Castes, Scheduled Tribes, or as the case may be, for the category of Backward Class of citizens, in a Panchayat, then such seat shall be allotted to women, by drawing lots, once in every three consecutive elections commencing from the first election to be held after the commencement of the Bombay Village Panchayats (Amendment) Act, 1994 (Mah. LII of 1994).

(4) Where only two seats are reserved either for the Schedule Castes, Schedule Tribes, or as the case may be, for the category of Backward Class of citizens, in a Panchayat, then out of those two seats one seat shall be allotted to women, by drawing lots in two out of the three elections, commencing from the first election.

total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both houses agree in making any amendment in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

82. **Repeal and savings.**—(1) Bihar Motor Vehicle Taxation Ordinance, 1993 (Bihar Ordinance No. 25 of 1993) is hereby repealed.

(2) Notwithstanding such repeal any notification, rule, regulation, order or notice issued or any appointment or declaration made or exemption granted or any confiscation made or any penalty or fine imposed any forfeiture, cancellation or any other thing done, or any other action taken under the said Act shall so far as it is not inconsistent with the provisions of this ordinance, be deemed to have been issued, made, granted, done or taken under this ordinance. Any document referring to any of the provisions of the repealed Ordinance shall be construed as referring to the corresponding provisions of this ordinance as if this ordinance was in force on the date action was done or taken.

(3) Any penalty payable under any of the provisions of the repealed Ordinance may be recovered in the order in this ordinance but without prejudice to any action already taken for recovery of such penalty under the authority of the repealed Ordinance.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (Act 10 of 1897) with regard to the effect of repeals.

SCHEDULE I

[See Sub-sections (1) of Sections 5, 6 and 7]

PART A

Rate Chart of one-time Tax for Personalised Vehicles

Stage of registration	Motor cycle not exceeding 50 kgs. weight unladen	Motor cycles exceeding 50 Kgs. but not more than 100 Kgs. in weight unladen.	Motor cycles exceeding 100 Kgs. unladen weight	Motor cars with seating capacity more than 3 persons but not more than 5 persons
1	2	3	4	5
1. One time tax to be	Rs. 900	Rs. 1,200	Rs. 1,500	Rs. 3,750

1	2	3	4	5
paid at the time of registration or if the motor vehicle is less than year of one since its first registration.				
2. If the motor vehicle already registered and its age from the month of its first registration is —				
(a) More that one year but not more than two years.	840	1,120	1,400	3,500
(b) More than two years but not more than three years.	780	1,040	1,300	3,250
(c) More than three years but not more than four years.	720	960	1,200	3,000
(d) More than four years but not more than five years.	660	880	1,110	2,750
(e) More than five years but not more than six years.	600	800	1,000	2,500
(f) More than six years but not more than seven years.	540	720	900	2,250
(g) More than seven years but not more than eight years.	480	640	800	2,000
(h) More than eight years but not more than nine years.	420	560	700	1,750
(i) More than nine years but not more than ten years.	360	480	600	1,500
(j) More than ten years but not more than eleven years	300	400	500	1,250
(k) More than eleven years but not more than twelve years.	240	320	400	1,000
(l) More than twelve years but not more	180	240	300	750

1	2	3	4	5
than thirteen years.				
(m) More than thirteen years but not more than fourteen years.	120	160	200	500
(n) More than fourteen years.	60	80	100	250

PART B

[See Sub-section (2) of section 7]

Chart Indicating the Scale of Refund

Scale of Refund	Motor cycles not exceeding 50 Kgs. unladen weight.	Motor cycles exceeding 50 Kgs. but not more than 100 Kgs. unladen weight.	Motor cycles exceeding 100 Kgs. unladen weight.	Motor cars seating capacity not less than 3 persons but not more than 5 persons.
1	2	3	4	5
If after registration, removal or cancellation of registration of personalised vehicles takes place—				
(1) Within one year	840	1,120	1,400	3,500
(2) After one year but within two years.	780	1,040	1,300	3,250
(3) After two years but within three years.	720	960	1,200	3,000
(4) After three years but within four years.	660	880	1,100	2,750
(5) After four years but within five years.	600	800	1,000	2,500
(6) After five years but within six years.	540	720	900	2,250
(7) After six years but within seven years.	480	640	800	2000
(8) After seven years but within eight years.	420	560		1,750
(9) After eight years but within nine years.	360	480	600	1,500

1	2	3	4	5
(10) After nine years but within ten years.	300	400	500	1,250
(11) After ten years but within eleven years.	240	320	400	1,000
(12) After eleven years but within twelve years.	180	240	300	750
(13) After twelve years but within thirteen years.	120	160	200	500
(14) After thirteen years but within fourteen years. years.	60	80	103	250
(15) After fourteen years,	Nil	Nil	Nil	Nil

PART C

[See Sub-section (3) of Section 7]

Rate of motor vehicle tax

Class of vehicle	Annual rate of tax on Motor Vehicles.
1. Carriage for invalid persons	Rs. 17.50
2. Goods carriages excluding trailers—	
(a) Upto 500 Kgs. registered laden weight.	Rs. 298.50
(b) Exceeding 500 Kgs. but not exceeding 2000 Kgs. of registered laden weight.	Rs. 298.50 + Rs. 24.00 for every additional 250 Kgs. or part thereof above 500 Kgs.
(c) Exceeding 2000 Kgs. but not exceeding 4000 Kgs. of registered laden weight.	Rs. 502.50 + Rs. 42.00 for every additional 250 Kgs. or part thereof above 2000 Kgs.
(d) Exceeding 4000 Kgs. but not exceeding 8000 Kgs. of registered laden weight.	Rs. 838.50 + Rs. 51.50 for every additional 250 Kgs. or part thereof above 4000 Kgs.
(e) Exceeding 8000 Kgs. registered laden weight.	Rs. 1,662.50 + Rs. 136.50 for every additional 250 Kgs. or part thereof above 8000 Kgs.
3. Motor cabs and omnibuses—	
(a) Seating not more than 4 persons (exclusive of the driver) —	
(i) Three wheelers ...	Rs. 362.00
(ii) Four wheelers ...	Rs. 528.00
(b) Seating capacity more than four persons.	Rs. 616.000 for five persons plus Rs. 105.50 for every additional person beyond five persons.

Class of vehicles	Annual rate of tax on Motor vehicles
4. Transport vehicles other than goods carriages, motor cabs and maxicabs exclusive of the driver and conductor—	
(a) Seating capacity not less more than 13 persons and not more than 26 persons.	Rs. 1,583.50 for 13 persons + 104.50 for every additional person beyond 13 and up to 26 persons.
(b) Seating capacity not less than 27 persons and not more than 32 persons.	Rs. 3,036.00 for 27 persons + Rs. 79.00 for every additional person beyond 27 person upto 32 persons.
(c) Seating capacity 33 persons or more.	Rs. 3,485.00 for 33 persons plus Rs. 53.00 for every additional person beyond 33 persons.
5. Tractors	Rs. 100.00
6. Trailers—	
(a) Upto 500 Kgs. registered laden weight	Rs. 259.09
(b) Exceeding 500 Kgs. but not exceeding 2000 Kgs. of registered laden weight.	Rs. 253.00 + Rs. 29.00 for every additional 250 Kgs. or part thereof above 500 Kgs.
(c) Exceeding 2000 Kgs. but not exceeding 4000 Kgs. of registered laden weight.	Rs. 432.00 + Rs. 40.00 for every additional 250 Kgs. or part thereof above 2000 Kgs.
(d) Exceeding 4000 Kgs. but not exceeding 8000 Kgs. of registered laden weight.	Rs. 760.00 + Rs. 49.50 for every additional 250 Kgs. or part thereof above 4000 Kgs.
(e) Exceeding 8000 Kgs. registered laden weight.	Rs. 1,368.00 + Rs. 120.00 for every additional 250 Kgs. or part thereof above 8000 Kgs.
7. Motor Vehicles other than these liable to pay tax under the foregoing provisions of this schedule—	
(a) Upto 500 Kgs. of registered unladen weight.	Rs. 120.00
(b) Exceeding 500 Kgs. but not exceeding 2000 Kgs. of registered unladen weight.	Rs. 240.00
(c) Exceeding 2000 Kgs. but not exceeding 4000 Kgs. of registered unladen weight.	Rs. 480.00
(d) Exceeding 4000 Kgs. but not exceeding 8000 Kgs. of registered unladen weight.	Rs. 960.00
(e) Exceeding 8000 Kgs. registered unladen weight.	Rs. 960.00 for 8000 Kgs. + 120.00 for every additional 1000 Kgs. or part thereof

SCHEDULE II
[Sub-section (2) of Section 5]
Additional Motor Vehicles Tax on Transport Vehicles

Serial no.	Class of vehicles	Annual rate of Additional Motor Vehicles Tax
1.	Goods carriage excluding trailers—	
	(a) upto 500 kgs. registered laden weight.	Rs. 310.00
	(b) exceeding 500 kgs. registered laden weight.	Rs. 310.00+Rs. 232.50 for every additional 500 kgs. or part thereof above 500 kgs. Rebate—A rebate of twenty-five percent of the additional motor vehicles tax will be allowed to vehicles of more than five years old but not more than ten years old and a rebate of thirty per cent of the additional motor vehicles tax will be allowed to vehicles of more than ten years old.
2.	Motor cabs (with seating capacity upto 6 persons exclusive of the driver—	
	(a) Three wheelers (autorickshaw and tempos).	Rs. 640.00
	(b) Four wheelers	Rs. 1,600.00
3.	Transport vehicles excluding goods carriages and motor cabs.	
	(a) with seating capacity more than 6 but not exceeding 15 persons exclusive of the driver.	Rs. 240.00 for every seat.
	(b) with seating capacity more than 15 persons but not exceeding 32 persons exclusive of driver and conductor.	Rs. 320.00 per seat.
	(c) with seating capacity exceeding 32 persons exclusive of driver and conductor.	Rs. 416.00 per seat. Rebate—A rebate of 10 percent of the additional motor vehicles tax will be allowed to contract carriage or stage carriage of more than 5 years old but not more than ten years old and a rebate of 15 percent of the additional motor vehicles tax will be allowed to such vehicles of more than ten years old.

4. Trailer—

(a) upto 5000 kgs. registered laden weight.	Rs. 1,444.00
(b) Exceeding 5000 kg. registered laden weight.	Rs. 1,440.00 plus Rs. 160.00 for every additional 1,000 kgs. and part thereof above 5000 Kgs.

SCHEDULE III

(See Section 6)

Rates of tax to be paid by dealer or manufacturer

Description of Vehicles in possession of a manufactures or dealer.	Annual tax for first seven or less vehicles of a manufacturer or dealer	Annual Tax for additional 7 vehicles of a manufacturer or dealer
	Amount Rs.	Amount Rs.
1. Motor Cycles	400.00	400.00
2. Chassis of heavy motor vehicles.	600.00	600.00
3. Other Vehicles	600.00	600.00

Patna ;

Dated 2nd February, 1994

A.R. KIDWAI,
Governor of Bihar.

Published in the Bihar Gazette, Extraordinary, dated 4th March, 1994,

THE BIHAR TAXATION LAW (AMENDMENT) ORDINANCE, 1994

BIHAR ORDINANCE NO. 3 OF 1994

An Ordinance to amend the Bihar Finance Act, 1981.

Preamble.—Whereas, the Legislature of the State of Bihar is not in session ;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) in the manner hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of the Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance—

1. Short title, commencement and extent.—(1) This Ordinance may be called the Bihar Taxation Law (Amendment) Ordinance, 1994,

(2) It shall extend to the whole of the State of Bihar.

(3) It shall come into force at once.

2. Amendment of section 13 of the Bihar Act 5 of 1981.—In the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) (hereinafter referred to as the said Act) in section 13 –

(i) Clause (a) of sub-section (1) shall be deleted.

(ii) In clause (i) of sub-section (2) and in sub-section (3) the letter, bracket and the comma "(a)" shall be deleted.

3. **Amendment of section 16 of the Bihar Act 5 of 1981.**—In the said Act in section 16, clause (ii) and clause (iii) of sub-section (5) for the figures and letters "23th" the figures and letters "15th" shall be substituted.

4. **Amendment of section 23A of the Bihar Act 5 of 1981.**—In the said Act in sub-section (1) of section 23A for the words "a maximum period of five or seven years as the case may be," the words "the period which may be specified in gazette notification under this sub-section by the Government" shall be substituted and shall always be deemed to have been substituted.

5. **Amendment of section 25A of the Bihar Act 5 of 1981.**—In the said Act in section 25A for sub-section (5), the following shall be substituted and shall always be deemed to have been substituted, namely :—

"(5)(a) The deduction referred to in sub-section (1) shall be made in the manner prescribed.

(b) The person making the deduction shall deposit the amount deducted into the Government Treasury in the manner prescribed."

Patna ;
Dated 3rd March 1994.

A. R. KIDWAI,
Governor of Bihar.

Published in the Bihar Gazette, Extraordinary, dated March 5, 1994.

THE BIHAR RESERVATION OF VACANCIES IN POSTS AND SERVICES (FOR SCHEDULED CASTES, SCHEDULED TRIBES AND OTHER BACKWARD CLASSES) (AMENDMENT) ORDINANCE, 1994

BIHAR ORDINANCE NO. 5 OF 1994

An Ordinance to amend the Bihar Reservation of Vacancies in Posts and Services (for Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1991.

Preamble.—Whereas, the Legislature of the State of Bihar is not in session ;

And, whereas, the Governor of Bihar is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Bihar Reservation of Vacancies in Posts and Services (For Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1991 (Bihar Act 3 of 1992) in the manner hereinafter appearing ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor is pleased to promulgate the following Ordinance ;—

1. **Short title and commencement.**—(1) This Ordinace may be called the **Bihar Reservation of Vacancies in Posts and Services (For Scheduled Castes, Scheduled Tribes and Backward Classes) (Amendment) Ordinance, 1994.**

(2) It shall be deemed to have come into force with effect from 17th February, 1993.

2. **Amendment of section 4 of Bihar Act 3 of 1992.**—In the Bihar Reservation of Vacancies in Posts and Services (For Scheduled Castes, Scheduled Tribes and other Backward Classes) Act, 1991 (Bihar Act 3 of 1992) (hereinafter referred to as the said Act) in sub-section (2) of section 4, the following provisos shall be added, namely ;—

if any, shall be deemed to be a "Member,";

(b) in sub-clause (ii), after the words "and for journeys by steamer at the rate of one and a half times first class fare," the words "for himself and one first class fare for one person accompanying him" shall be inserted ;

(2) for clause (b), the following clause shall be substituted :—

"(b) there shall be paid to a member an allowance at the rate of one thousand rupees per annum on account of postal expenses ; and"

(3) in clause (c), in sub-clause (ii),—

(a) in the first proviso, for the word "ten", the word "twelve" shall be substituted ;

(b) in the second proviso, for the word "ten", the word "twelve" shall be substituted.

3. **Amendment of Section 5.**—In clause (a) of sub-section (2) of Section 6 of the principal Act—

(1) the words "and conveyance allowance" shall be omitted, and

(2) for the words "such allowances", the words "such allowance" shall be substituted.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 901-L., dated 20th May, 1994.

THE WEST BENGAL BOARD OF SECONDARY EDUCATION (AMENDMENT) ACT, 1994

WEST BENGAL ACT NO. XXIV OF 1994

An Act to amend the West Bengal Board of Secondary Education Act, 1963.

Whereas it is expedient to amend the West Bengal Board of Secondary Education Act, 1963 (West Ben. Act V of 1963), for the purpose and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. **Short title.**—This Act may be called the West Bengal Board of Secondary Education (Amendment) Act, 1994.

2. **Amendment of Section 9 of West Ben. Act V of 1963.**—In Section 9 of the West Bengal Board of Secondary Education Act, 1963, for sub-section (2), the following sub-section shall be substituted :

"(2) The term of office of the President shall be five years from the date of his appointment.".

Published in the Calcutta Gazette, Extraordinary, Part III, No. 1162-L., dated 27th June, 1994.

THE WEST BENGAL TOWN AND COUNTRY (PLANNING AND DEVELOPMENT) (AMENDMENT) ACT, 1994

WEST BENGAL ACT NO. XXVI OF 1994

An act to amend the West Bengal Town and Country (Planning and Development) Act, 1979

Whereas it is expedient to amend the West Bengal Town and Country (Planning and Development) Act, 1979, for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by

the Legislature of West Bengal, as follows :—

1. **Short title and commencement.**—(1) This Act may be called the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. **Amendment of Section 2 of West Bengal Act 13 of 1979.**—In Section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979 (hereinafter referred to as the principal Act),—

(a) clause (9) shall be omitted ;

(b) after clause (12), the following clause shall be inserted ;—

'(12A) "Land Use and Development Control Plan" means any Land use and Development Control Plan prepared" under this Act ;'.

3. **Amendment of Section 13.**—In Section 13 of the principal Act, in sub-section (1),—

(a) in clause (i),—

(i) in sub-clause (b), for the words "an Outline Development plan ;", the words "a Land Use and Development Control Plan ;', shall be substituted ;

(ii) sub-clause (c) shall be omitted ;

(b) in clause (ii),—

(i) in sub-clause (b), for the words "an Outline Development Plan ;", the words "a Land Use and Development Control Plan ;" shall be substituted ;

(ii) sub-clause (c) shall be omitted ;

(iii) in sub-clause (g), for the words "Development Plans ;", the words "Land Use and Development Control Plans ;" shall be substituted.

4. **Amendment of Chapter VI.**—In Chapter VI of the principal Act,—

(a) in the heading, for the words "Development Plans", the words "Land Use and Development Control Plans" shall be substituted ;

(b) in Section 31,—

(i) for the marginal note, the following marginal note shall be substituted :—

"Land Use and Development Control Plan";

(ii) for the words "Outline Development Plan", wherever they occur, the words "Land Use and Development Control Plan" shall be substituted ;

(c) Section 32 shall be omitted ;

(d) in Section 33,—

(i) in the marginal note, for the words "Development Plan" in the two places where they occur, the words "Land Use and Development Control Plan" shall be substituted ;

(ii) for the words "Development Plan" wherever they occur, the words "Land Use and Development Control Plan" shall be substituted ;

(e) in Section 34,—

(i) in the marginal note, for the words "Development Plan.", the words "Land Use and Development Control Plan." shall be substituted ;

(ii) for the words "Development Plan", wherever they occur, the words "Land Use and Development Control Plan" shall be substituted ;

(f) in Section 35,—

(i) in the marginal note, for the words "Development Plan.", the words "Land Use and Development Control Plan." shall be substituted ;

(ii) for the words "Development Plan" in the two places where they occur, the words "Land Use and Development Control Plan" shall be substituted ;

(g) in Section 36,—

(i) in the marginal note, for the words "Development Plan.", the words "Land Use and Development Control Plan." shall be substituted ;

(ii) for the words "Development Plan" wherever they occur, the words " Land Use and Development Control Plan" shall be substituted ;

(iii) in sub-section (1), after the words "within a period of sixty days", the words "from the date of publication of the public notice in the Official Gazette or from the date of publication of the public notice in the newspaper, whichever is later" shall be inserted ;

(iv) in sub-section (6), for the words "but not later than sixty days" the words but not later than such time as may be prescribed," shall be substituted ;

(h) in Section 37 —

(i) in sub-section (1),—

(A) for the words "Development Plan", wherever they occur, the words "Land Use and Development control Plan" shall be substituted ;

(B) for the words "but not later than sixty days", the words "but not later than such time as may be prescribed," shall be substituted ;

(ii) in sub-section (2), for the words " within sixty days of the receipt of the plan", the words "within such time of the receipt of the plan as may be prescribed," shall be substituted ;

(i) in Section 38,—

(i) in the marginal note, for the words "Development Plan.", the words "Land Use and Development Control Plan." shall be substituted ;

(ii) for the words "Development Plan", wherever they occur, the words "Land Use and Development Control Plan" shall be substituted ;

(iii) sub-section (4) shall be omitted ;

(j) in Section 39,—

(i) in the marginal note, for the words "Development Plan.", the words "Land Use and Development Control Plan." shall be substituted ;

(ii) for the words 'Development Plan", wherever they occur, the words "Land use and Development Control Plan" shall be substituted ;

(k) in Section 40,—

(i) in the marginal note, for the words "Development Plan." the words "Land Use and Development Control Plan." shall be substituted ;

(ii) for the words "Development Plan", wherever they occur, the words "Land Use and Development Control Plan" shall be substituted ;

(l) in Section 41,—

(i) in the marginal note, for the words "Development Plan.", the words "Land Use and Development Control Plan." shall be substituted ;

(ii) for the words "Development Plan", wherever the occur, the words "Land Use and Development Control Plan", shall be substituted ;

(m) in Section 42,—

(i) in the marginal note, for the words "Development Plan.", the words "Land Use and Development Control Plan." shall be substituted ;

(ii) for the words "Development Plan" in the two places where they occur, the words "Land Use and Development Control Plan" shall be substituted ;

(n) after Section 42, the following section shall be inserted :—

"42A. **Validation of plan prepared or adopted prior to the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994.**—Any plan, by whatever name called, prepared or adopted by any Planning Authority or Development Authority under any any provision of this Act prior to the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994, shall on the coming into force of the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994, be deemed to be a Land Use and Development Control Plan prepared or adopted, as the case may be, under this Act, as amended by the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1994."

(o) in section 43, for the words "Development Plan", the words "Land Use and Development Control Plan" shall be substituted.

6. **Amendment of Section 44.**—In Section 44 of the principal Act,—

(a) in the marginal note, for the words "Development Plan.", the words "Land Use and Development Control Plan." shall be substituted ;

(b) for the words "Development Plan", wherever they occur, the words "Land Use and Development Control Plan" shall be substituted.

6. **Amendment of Section 46.**—In Section 46 of the principal Act,—

(a) in clause (i) of sub-section (3),—

(i) in sub-clause (a), for the words "Development Plan", the words "Land Use and Development Control Plan", shall be substituted ;

(ii) for sub-clause (b), the following sub-clause shall be substituted :-

(b) the regulations, if any, made under Section 139 and applicable to the land on which the development is intended to be carried out, the building rules, if any, of a Panchayat or a Municipality in so for as they are not inconsistent with the regulations as aforesaid and are applicable to such land the provisions of Land Use and Development Control Plan as forwarded to the State Government under Section 31 or as modified thereafter, and any other material consideration.

Explanation.—"Panchayat" has the same meaning as in clause (d) of article 243, and "Municipality" has the same meaning as in clause (e) of article 243P, of the Constitution of India.

(b) in sub-section (6), for the words "development plan", the words "Land Use and Development Control Plan" shall be substituted.

7. **Amendment of Section 51.**—In sub-section (1) of Section 51 of the principal Act, for the words "development plan", the words "Land Use and Development Control Plan" shall be substituted.

8. **Amendment of Section 52.**—In Section 52 of the principal Act,—

(a) in the marginal note, for the words "development plan.", the words "Land Use and Development Control Plan " shall be substituted ;

(b) for the words "development plan" in the two places where they occur, the words "Land Use and Development Control Plan" shall be

substituted.

9. **Amendment of Section 53.**—In Section 53 of the principal Act, in the marginal note, for the words "development plan", the words "Land Use and Development Control Plan." shall be substituted.

10. **Amendment of Section 55.**—In sub-section (1) of Section 55 of the principal Act, for the words "development plan," the words "Land Use and Development Control Plan" shall be substituted.

11. **Amendment of Section 56.**—In Section 56 of the principal Act,—

(a) in the marginal note, for the words "development plan" the words "Land Use and Development Control Plan." shall be substituted ;

(b) for the words "development plan" in the two places where they occur, the words "Land Use and Development Control Plan" shall be substituted.

12. **Amendment of Section 57.**—In Section 57 of the principal Act, for the words "development plan" in the two places where they occur, the words "Land Use and Development Control Plan" shall be substituted.

Amendment of Section 138.—In sub-section (2) of Section 138 of the principal Act,

(a) in clause (f),—

(i) for the words "Outline Development Plan," the words "Land Use and Development Control Plan" shall be substituted, and

(ii) the words "Detailed Development Plan" shall be omitted ;

(b) in clause (g), for the words "development plan,", the words "Land Use and Development Control Plans," shall be substituted.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 1163-L, dated 27th June, 1994.

THE INDIA BELTING AND COTTON MILLS LIMITED (ACQUISITION AND TRANSFER OF UNDERTAKINGS) (AMENDMENT) ACT, 1994

WEST BENGAL ACT NO. XXVII OF 1994

An Act to amend the India Belting and Cotton Mills Limited (Acquisition and Transfer of Undertakings) Act, 1992.

Whereas it is expedient to amend the India Belting and Cotton Mills Limited (Acquisition and Transfer of Undertakings) Act, 1992 (West Ben. Act 31 of 1992), for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. **Short title and commencement.**—(1) This Act may be called the **India Belting and Cotton Mills Limited (Acquisition and Transfer of Undertakings) (Amendment) Act, 1994.**

(1) It shall come into force at once.

2. **Amendment of Section 1 of West Ben. Act, 31 of 1992.**—For sub-section (2) of Section 1 of the India Belting and Cotton Mills Limited (Acquisition and Transfer of Undertakings) Act, 1992 (hereinafter referred to as the principal Act), the following sub-section shall be substituted and shall be deemed always to have been substituted ;—

"(2) Section 28 shall come into force on the date of publication of this Act in the Official Gazette, and the remaining provisions of this Act

shall be deemed to have come into force on the 16th day of November, 1992".

3. Amendment of Section 34.—In Section 34 of the principal Act,—

(a) for the marginal note, the following marginal note shall be substituted :—

"Repeal, saving and validation." ;

(b) after sub-section (2), the following sub-section shall be inserted :—

"(3) Notwithstanding anything in the foregoing provisions of this section or elsewhere in this Act, the repeal shall not—

(a) affect any penalty or punishment imposed in respect of any offence committed against the Ordinance so repealed, or

(b) affect any investigation, legal proceeding or remedy in respect of any such penalty or punishment as aforesaid,

during the period from the 16th day of November, 1992 till the 7th day of January, 1993, being the date immediately before the date on which the Ordinance so repealed ceased to operate ; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such such penalty or punishment may be imposed as if this Act had not been passed.".

Published in the Calcutta Gazette, Extraordinary, Part III, No. 1352-L, dated 3rd August, 1994.

THE WEST BENGAL SCHEDULED CASTES AND SCHEDULED TRIBES (IDENTIFICATION) ACT, 1994

WEST BENGAL ACT NO. XXXVIII OF 1994

An Act to provide for the identification of the Scheduled Castes and the Scheduled Tribes in West Bengal and for matters connected therewith or incidental therewith or incidental thereto.

Whereas it is expedient to provide for the identification of the Scheduled Castes and the Scheduled Tribes in West Bengal and for matters connected therewith or incidental thereto ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the West Bengal Scheduled Castes and Scheduled Tribes (Identification) Act, 1994.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.—In this Act, unless the context otherwise, requires.—

(a) "Constitution" means the Constitution of India ;

(b) "notification" means a notification published in the Official Gazette ;

(c) "prescribed" means prescribed by rules made under this Act ;

(d) "Scheduled Castes" shall have the same meaning as in clause (24) of article 366 of the Constitution ;

(e) "Scheduled Tribes" shall have the same meaning as in clause (25) of article 366 of the Constitution ;

(f) "the Constitution (Scheduled Castes) Order" means the Constitu-

tion (Scheduled Castes) Order, 1950, made by the President in exercise of the powers conferred by clause (1) of article 341 of the Constitution ;

(g) "the Constitution (Scheduled Tribes) Order" means the Constitution (Scheduled Tribes) Order, 1950, made by the President in exercise of the powers conferred by clause (1) of article 342 of the Constitution.

3. **Identification of members of Scheduled Castes.**—Any person belonging to any of the castes, races or tribes or tribes or parts of or groups within castes, races or tribes, specified in Part XIII of the Schedule to the Constitution (Schedule Castes) Order, and resident in the locality specified in relation to him in that Part of such Schedule, may be identified, by a certificate, to be a member of the Scheduled Castes.

4. **Identification of members of Scheduled Tribes.**—Any person belonging to any of the tribes or tribal communities or parts of or groups within tribes or tribal communities, specified in Part XII of the Schedule to the Constitution (Scheduled Tribes) Order, and resident in the locality specified in relation to him in that Part of such Schedule, may be identified, by a certificate, to be a member of the Scheduled tribes.

5. **Issue of certificate of identification.**—A certificate under Section 3 or Section 4 may be issued,—

(a) in the district, by the Sub-divisional Officer of the sub-division concerned, and

(b) in Calcutta, by the District Magistrate, South 24-Parganas, or by such Additional District Magistrate, South 24-Parganas, as may be authorised be the District Magistrate, South 24-Parganas, in this behalf.

Explanation I.—"Calcutta" shall mean the town of Calcutta as defined in Section 3 of the Calcutta Police Act, 1866 (Ben. Act, 4 of 1866).

Explanation II.—For the removal of doubt, it is hereby declared that for the purpose of this Act, the District Magistrate, South 24-Parganas, or the Additional District Magistrate, South, 24-Parganas, authorised by the District Magistrate, South 24 Parganas, under clause (b) of this section, shall have jurisdiction over Calcutta.

6. **Procedure of issue of certificate.**—A certificate under this Act may be issued on application by the person requiring the certificate under this Act in such form and manner, and upon production of such evidence, as may be prescribed.

7. **Power to refuse to issue certificate.**—If the Sub-divisional Officer or the District Magistrate, South 24 Parganas, or the Additional District Magistrate, South 24-Parganas, authorised by the District Magistrate, South 24-Parganas, under clause (b) of Section 5, as the case may be (hereinafter referred to as the certificate issuing authority), is not satisfied with the evidence produced by any person under Section 6 and the rules made thereunder for the issue of a candidate under Section 6, he may refuse, in writing to issue such certificate after giving such person a reasonable opportunity of being heard.

8. **Appeal against refusal to issue certificate.**—(1) An appeal against any refusal under Section 7 to issue any certificate shall lie—

(a) to the District Magistrate, or the Additional District Magistrate authorised by the District Magistrate in this behalf, where the certificate is refused by the Sub-divisional Officer, and

(b) to the Commissioner, Presidency Division where the certificate is refused by the District Magistrate, South 24-Parganas, or the Additional District Magistrate, South 24-Parganas, authorised by the District Magistrate, South 24-Parganas, under clause (b) of Section 5, as the case may be ;

Provided that every such appeal shall be made in such manner and within such time as may be prescribed :

Provided further that every such appeal shall be disposed of within three months from the date on which the appeal is made :

Provided also that no such appeal shall be disposed of without giving appellant a reasonable opportunity of being heard.

(2) The decision of the District Magistrate or the Additional District Magistrate or the Commissioner, Presidency Division, as the case may be, on any appeal under sub-section (1) shall be final.

9. **Power to cancel, impound or revoke certificate.**—If the certificate issuing authority is satisfied that a certificate under this Act has been obtained by any person by furnishing any false information or by misrepresenting any fact or by suppressing any material information or by producing any document which is an act of forgery, it may cancel, impound or revoke such certificate in such manner as may be prescribed.

10. **Offences and penalties.**—Whoever—

(a) knowingly furnishes any false information, or

(b) knowingly misrepresents any fact, or

(c) knowingly suppresses any material information, or

(d) knowingly produces any document which is an act of forgery,

with a view to obtaining a certificate under this Act, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

11. **Validation of certificate.**—Notwithstanding anything contained in this Act, any certificate identifying any person to be a member of the Scheduled Castes or the Scheduled Tribes, issued by any authority, competent under any law for the time being in force to issue such certificate, prior to the commencement of this Act, shall be valid and shall be deemed to have been issued under this Act unless such certificate is proved to have been obtained by furnishing any false information or by misrepresenting any fact or by suppressing any material information or by producing any document which is an act of foregery and in every such case, the certificate issuing authority shall have the power to cancel, impound or revoke such certificate in accordance with the provisions of this Act and the rules made thereunder.

12. **Power to make rules.**—(1) The State Government may, by notification, make rules for carrying one the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which, under any provision of this Act, are required to be prescribed or to be provided for by rules.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 1462-L, dated 17th August, 1994.

THE HOWRAH MUNICIPAL CORPORATION (AMENDMENT) ACT, 1994

WEST BENGAL ACT NO. XL OF 1994

An Act to amend the Howrah Municipal Corporation Act, 1980,

(No. 2 of 1959) ;

(2) Sub-section (3) of Section 13 of the Central Sales Tax Act, 1956 (No. 74 of 1956).

The State Government hereby makes the following rules, namely :—

1. Short Title and Commencement.—(1) These rules may be called the Madhya Pradesh Deferment of Payment of Tax Rules, 1994.

(2) These rules shall be be deemed to have come into force with effect from 6th May, 1994.

2. Definitions.—(1) In these rules unless the context otherwise requires,—

(a) "Act" means the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959) ;

(b) "Capital investment in fixed assets" in relation to,—

(1) a medium or a large scale industrial unit means, –

(i) investment made in land, building, plant and machinery, electric installation and pollution control equipment ;

(ii) expenditure on land development, limited to 10% of the investment made in land and building ;

(iii) investment made for laboratory, research and on administrative building ;

(iv) investment made in machinery and equipment for laboratory and research ;

(v) capital investment made on establishment of railway siding ;

(vi) expenditure on godown, storage tank etc ;

(vii) such value of machinery and equipment taken on lease on permanent basis required for production as the State Government may in Commerce and Industries Department, by order, specify ; and

(2) Small scale new industrial unit means investment made in or expenditure on items (i) to (iv) and (vi) in clause (1) above ;

(c) "date of commencement of commercial production" in relation to a new industrial unit or an existing industrial unit or an existing industrial unit undertaking expansion means,—

(i) if it is a small scale industrial unit, the date of expiry of the period of trial run or the date of expiry of period of thirty days commencing from the date of commencement of the trial run, whichever is earlier ;

(ii) if it is a medium scale industrial unit, with a capital investment upto rupees five crores, the date of expiry of the period of trial run or the date of expiry of a period of ninety days commencing from the date of commencement of the trial run, whichever is earlier ;

(iii) if it is a large scale industrial unit with a capital investment exceeding rupees five crores, the date of expiry of the period of trial run or the date of expiry of a period of one hundred and eighty days commencing from the date of commencement of the trial run, whichever is earlier ; and

(iv) if it is an industrial unit not covered by any of the above categories, such date as the State Government may, by order, specify ;

(d) "Diversification" means the production of any new item with the existing or newly inducted plant or machinery by a new industrial unit during the period of its eligibility.

(e) "Effective steps" in relation to a dealer means.—

(i) he has taken possession of the land,

(ii) atleast 50% of the estimated expenditure on building as per project report has been incurred.

(iii) firm orders of at least 50% of the plant and machinery as per project report has been placed,

and accordingly a dealer shall be deemed to have taken effective steps if any two of the steps specified above have been taken by him.

(f) "Dealer" undertaking expansion in the existing unit, means dealer,—

(i) whose existing industrial unit is a small scale industrial unit with a capital investment in plant and machinery exceeding rupees ten lacs, makes in such unit an additional investment in plant and machinery of not less than 50% of the investment in plant and machinery of the existing industrial unit ;

(ii) whose existing industrial unit is a medium or large scale industrial unit with a capital investment in fixed assets upto rupees ten crores, makes in such unit an additional investment in plant and machinery of rupees one crore or more; and

(iii) whose existing industrial unit is a large scale industrial unit with a capital investment in fixed assets exceeding rupees ten crores, makes an additional investment in plant and machinery in such unit of rupees 5 crores or more;

(g) "New industrial unit" means an industrial unit established by a registered dealer in any of the district of the State of Madhya Pradesh for the manufacture of any goods certified to be a new industrial unit by any authority authorised for the purpose by the Commerce and Industries Department of the Government of Madhya Pradesh, wherein he commences commercial production on or after 6th May, 1994 and shall include an industrial unit which is established by him in the premises of his existing industrial unit subject to the condition that he complies with the following requirements:—

(i) the industrial unit is separately registered as a new industrial unit with an authority authorised for the purpose by the Commerce and Industries Department of the Government of Madhya Pradesh;

(ii) separate factory licence/central excise licence if necessary; separate registration certificate under the Act and the Central Act is obtained in respect of the industrial unit;

(iii) separate building/shed for the industrial unit is constructed, new plant and machinery is installed therein and separate electric power connection or additional electric power loads has been sanctioned for the industrial unit by the Madhya Pradesh Electricity Board;

(iv) the dealer manufactures in the industrial unit products different from those manufactured in the existing industrial unit;

(v) separate books of accounts are maintained for the industrial unit ;

(vi) the new industrial unit is independent of the existing industrial unit and is not dependent on the existing industrial unit in any manner;

(h) "No Industry Development Block" means such development block which does not have a medium or a large scale industrial unit on 6th May, 1994;

(i) "Rules" means the Madhya Pradesh General Sales Tax Rules, 1959 or the Madhya Pradesh Sales Tax (Central) Rules, 1957,

(j) "Thrust sector" shall include the products of the following indust-

ries with a capital investment in plant and machinery of atleast rupees one crore, as the State Government in the Commercial Tax Department, may, by order, specify from time to time.—

(i) automobile industry;
(ii) agro-based industry;
(iii) agriculture inputs industry;
(iv) mineral resource based industry;
(v) life saving drugs manufacturing industry;
(vi) food processing industry;
(vii) white goods industry;
(viii) telecommunications industry;
(ix) Leather goods industry;
(x) Silk Industry
(xi) Petro chemical industry
xii) Down stream project.
(xiii) agricultural implements;
(xiv) fish canning;
(xv) automobile components.
(xvi) readymade garments.
(xvii) sports goods

(2) All other words and expressions used herein but not defined and defined in the Act shall have the meaning assigned to them in the Act.

3. **Eligibility of availing of the facility of deferment of payment of tax.**— (1) (a) A registered dealer who—

(i) establishes a new industrial unit other than any of those specified in rule-11, or

(ii) has taken effective steps before 6th May, 1994 for establishing a new industrial unit other than any of those specified in rule 11, but commences commercial production on or after the said date before 1st April, 1995, and if such unit is a medium or a large scale new industrial unit refunds before 1st April, 95 the amount of advance subsidy if obtained by him under the then operational scheme of State Capital investment subsidy shall have the option to avail of the facility of deferment of payment of tax under these rules in lieu of the facility of exemption from payment of tax under CTD Notification No. A-3 (24) 94 ST-V-(108), dated the 6th October, 1994. Having exercised such option such dealer shall be eligible to avail of the facility of deferment of payment of tax under these rules.

(b) If a registered dealer availing of the deferment of tax under these rules in respect of his new industrial unit other than any of those specified in rule 11 undertakes modernisation or diversification in the said unit during the period of eligibility and for that opts for the facility of deferment of payment of tax he shall be eligible to avail of the facility of deferment of payment of tax under these rules.

(c) If a registered dealer undertakes expansion in his existing industrial unit other than any of those specified in rule 11, and for that opts for the facility of deferment of payment of tax, he shall be eligible to avail of such facility in his expanded capacity of the existing industrial unit.

(d) The option exercised by a registered dealer under clause (a) or clause (b) shall be final and on having exercised such option such dealer shall not be eligible to avail of the facility of exemption from payment of tax under

CTD Notification No. A-3-(24)-94-ST-V-(108), dated the 6th October, 1994.

(c) A registered dealer specified in sub-clause (ii) of clause (a) who opts for the facility of deferment of payment of tax under these rules shall not be eligible to avail facility of deferment of tax under any scheme in force before 6th May, 1994

(2) A registered dealer eligible for the facility of deferment of payment of tax under clause (a) or clause (b) or clause (c) of sub-rule (1) shall avail of such facility in respect of the tax payable by him under Section 6 of the Act and under the Central Act on the Sales of the principal products manufactured or by-products and waste products obtained in the course of manufacture and tax payable under Section 7 of the Act on goods consumed or used as raw material or incidental goods in manufacture or used as packing of the manufactured goods in the new industrial unit or in pursuance of the modernisation or diversification undertaken by him in his existing unit or in the expanded capacity of his existing unit, as the case may be.

4. **Quantum of deferment and the period therefor.**—(1) (a) The facility of deferment of payment of tax shall be available to a registered dealer in each category specified in the schedule below in respect of the new industrial unit established by him or the existing unit wherein he undertakes diversification or expansion located in any district specified in the Annexure to the extent of the maximum cumulative quantum of tax payable by him under Section 6 and Section 7 of the Act under the Central Act and for the maximum period indicated against each such category,—

SCHEDULE

Category of registered dealers (1)	Cumulative quantum of tax to the deferred payment of which eligible (2)	Period (3)
1. Dealer who establishes a small scale new industrial unit with capital investment in fixed assets upto rupees ten lacs.	For a unit established in any district specified in the Annexure 150% of the capital investment in fixed assets.	For a unit established in a district specified in— (i) part I of the Annexure-4 years. (ii) part II of the Annexure,— category A 7 years category B-8 years category C-9 years
2. Dealer who establishes small scale new industrial unit with a capital investment in fixed assets exceeding rupees ten lacs, or a medium or a large scale new industrial unit or who undertakes expan-	For a unit established in a district specified in— (i) part I of the Annexure 175%, and (ii) Part II of the Annexure— Category A 200% Category B 250%	 4 years 7 years 8 years

1	2	3
sion in such existing industrial unit,	Category C 300% of the capital investment in fixed assets in the new industrial unit or in the expanded capacity of the existing industial unit as the case may be.	9 years
3. Dealer who establishes a small scale new industrial unit with a capital investment in plant and machinery exceeding rupees five lacs or a medium or a large scale new industrial unit in a "No industry development block" or who undertakes expansion in such existing industrial unit.	For a unit established in a district specified in,— Part I or categories A, and B of Part II of the Annexure—300% and	9 years
	(ii) Category C of Part II of the Annexure—300% of the capital investment in fixed assets, in a new industrial unit or in the expanded capacity of the existing industrial unit, as the case may be.	10 years
4. Dealer who establishes a small scale new industrial unit with a capital investment in fixed assets exceeding rupees ten lacs or a medium or large scale new industrial unit in an area within the State of Madhya Pradesh declared as a rehabilitation area for persons displaced on account of large dam/projects or who undertakes expansion in such existing industrial unit.	For a unit established in a rehabilitation area located in a district specified in— (i) Part I and categories 'A' & 'B' of Part II of Part II of the Annexure-300% and	9 years
	(ii) Category 'C' in Part II of the Annexure-300% of the capital investment in fixed assets in the new industrial unit or in the expanded capacity of the existing industrial unit as the case may be.	11 years
5. (i) Dealer who establishes a small scale new industrial unit with a capital investment in fixed assets exceeding rupees ten lacs or a medium or large scale industrial unit in a growth centre developed by Audyogik Kendra Vikas	For a unit established in growth centre located in a district specified in — (i) Part I of the Annexure -175% and	6 years
	(ii) Part II of the Annexure— Category A 200%	9 years

1	2	3
Nigam other than Borai growth centre in Durg district, or who undertakes expansion in such existing industrial unit.	Category B 250% Category C 300% of the capital investment in fixed assets in the new industrial unit or in the expanded capacity of the existing industrial unit as the case may be.	10 years 11 years
(ii) Dealer who establishes a small scale new industrial unit with a capital investment in fixed assets exceeding Rs. ten Lacs or a medium or a large scale new industrial unit in Borai growth centre in Durg district covered by part-I of the Annexure or who undertakes expansion in such existing industrial unit,	250% of the capital investment in fixed assets in the new industrial unit or in the expanded capacity of the existing industrial unit, as the case may be.	8 years
(iii) Dealer who establishes a new small scale industrial unit with a capital investment in fixed assets exceeding rupees ten lacs or a medium or large scale new industrial unit on land within five kilometers of the boundary of a growth centre due to non-availability of land in the said growth centre and is issued a certificate in Form D by the Managing Director Madhya Pradesh Audyogik Kendra Vikas Nigam about the non-availability of land in the growth centre or who undertakes expansion in such existing industrial unit.	For a unit established in a district specified in— (i) part I of the Annexure 175%, and (ii) Part II of the Annexure— Category A 200% Category B 250% Category C 300% of the capital investment in fixed assets in the new industrial unit or in the expanded capacity of the existing industrial unit as the case may be.	5 years 8 years 9 years 10 years
6. Dealer Who establishes 100% export oriented new industrial unit or who undertakes expansion in	For a unit established in a district specified in— (i) Part I of the An-	6 years

1	2	3
such existing industrial unit.	nexure 175%, and (ii) Part II of the Annexure— Category A 200% Category B. 250% Category C 300% of the capital investment in fixed assets in the new industrial or in the expanded capacity of the existing industrial unit as the case may be.	9 years 10 years 11 years
7. Dealer who is a non-resident Indian and who establishes a new industrial unit with a capital investment in fixed assets of at least rupees two crores and wherein the NRI investment is at least 50% of the equity invested by the promoters or who undertakes expansion in such existing industrial unit.	For a unit established in a district specified in— (i) part I of the Annexure 175%, and (ii) Part II of the Annexure— Category A 200% Category B 250% Category C 300% of the capital investment in fixed assets in the new industrial unit or in the expanded capacity of the existing industrial unit as the case may be.	6 years 9 years 10 years 11 years

(b) A dealer specified in any of the categories 1 to 7 specified in clause (a) who establishes a new industrial unit in the thrust sector or undertakes expansion in such existing industrial unit in the thrust sector shall be eligible to avail of the facility of deferment of payment of tax in respect of the whole of the tax payable by him under Section 6 or Section 7 of the Act or under the Central Act for the period specified against each of the said categories in relation to the category of the district in which such unit is established. The limit with regard to the quantum of tax exemption specified in column (2) of the schedule shall not apply to such industrial units.

(c) For the purpose of determination of the cummulative quantum of tax to the deferred payment of which a dealer establishing a new industrial unit may be eligible, the capital investment in fixed assets made by him in such new industrial unit, upto a period of 3 years from the date of commencement of commercial production if his investments is upto that date is upto rupees one hundred crores, and upto a period of 5 years from the date of commencement of commercial production, if its investment is upto the

date of commercial production is above rupees one hundred crores shall be taken into consideration.

(d) The period of eligibility to avail of the facility of deferment of payment of tax under clause (a) or clause (b) shall commence from the date of commencement of commercial production.

(e) The facility of deferment of payment of tax shall be available to registered dealer specified in category 4 in the Schedule in clause (a) subject to the condition that such dealer provides in his new industrial unit to the displaced persons rehabilitated in the rehabilitation area employment in such number as the State Government may, by order specify.

(f) (i) A registered dealer belonging to Schedule Caste, Schedule Tribe or other Backward class or who is a woman enterpreneur, shall be eligible for deferment of payment of tax for an additional year, than that specified in the schedule, in relation to the respective category.

(ii) If a registered dealer who establishes a new industrial unit in a cooperative sector or undertakes expansion in his existing unit in the co-operative sector, such registered dealer shall be eligible for deferment of payment of tax for three more years in addition to the period specified in the schedule in relation to the respective category.

(iii) the cummulative additional benefit with regard to the period of eligibility shall not exceed five years, in any case.

(2) A registered dealer shall be eligible to avail of the facility of deferment of payment of tax, subject to his obtaining an eligibility certificate in accordance with the provisions of these rules.

(3) A registered dealer in any of the categories 1 to 7 specified in the schedule in clause (a) of sub-rule (1) shall be eligible to avail of the facility of deferment of payment of tax to the extent of the maximum cummulative quantum and for the maximum period specified against each category. If such dealer achieves the said cummulative quantum of tax on any date before the expiry of the said maximum period the said dealer shall cease to avail of the said facility on and from such date and his eligibility certificate shall cease to be in force from that date.

(4) A registered dealer undertaking expansion in his existing industrial unit shall be eligible to avail such facility in respect of that much quantum of goods manufactured by him which is in excess of 100 per cent of the original installed capacity of the existing industrial unit.

(5) If a registered dealer undertakes modernisation or diversification in his new industrial unit or in the expanded capacity of his existing industrial unit during the period of eligibility he shall be eligible to avail of the facility of deferment of payment of tax payable on the additional principal products, by-products as also the additional raw material consumed or used or incidental goods used in manufacture and packing material used in the packing of such products, after such modernisation or diversification for the unexpired period of eligibility.

5. Period during which the payment of tax shall remain deferred.—(1) The amount of tax payable by a registered dealer for every year of the period during which he avails of the facility of deferment of payment of tax under clause (a) of sub-rule (1) o rule 4 or the period for which he has availed of the said facility under clause (b) of the said sub-rule shall be deferred for a period of five years. In the sixth year the amount of tax the

13. **Amendment of Chapter VI-A.**—In Chapter VI-A of the principal Act,—

(a) in Section 44-B,—

(i) in sub-section (1), for the words, brackets and figure "Election Commissioner as specified in sub-section (2)", the words "Subordinate Judge having jurisdiction over the place at which the office of the Samiti is situated" shall be substituted ;

(ii) sub-sections (2), (4) and (6) shall be omitted ;

(b) in sub-section (1) of Section 44-C, the words "or any elector eligible to vote at such election" shall be omitted ; and

(c) for the words "Election Commissioner" wherever they occur, the words "Subordinate Judge" shall be substituted.

14. **Amendment of Section 45.**—In the principal Act, in sub-section (1) of Section 46,—

(i) in the opening portion of sub-section (1), the word, brackets and figure "and (2)" shall be omitted ;

(ii) in clauses (p) and (r), for the colon " : " appearing at the end, the semicolon and word "; or" shall be substituted ;

(iii) after clause (r), the following clauses shall be inserted, namely :—

"(s) is less than twenty-one years of age ; or

(t) is not able to read and write Oriya ; or

(u) has more than one spouse living ; or

(v) has more than two children ; "; and

(iv) after the proviso, the following proviso, shall be inserted, namely :—

"Provided further that the disqualification under clause (v) shall not apply to a person who has more than two Children on the date of commencement of the Orissa Panchayat Samiti (Amendment) Act, 1994 or, as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year".

15. **Amendment of Section 47.**— In the principal Act, in Section 47,—

(a) in sub-section (1), for the words, brackets and figure "under sub-section (2)", the words, brackets, letter and figure "under clause (b) of sub-section (1)" shall be substituted ;

(b) in sub section (2),—

(i) after the word "Chairman" occurring for the first time, the words "or the Vice-Chairman" shall be inserted ; and

(ii) after the word "Chairman" wherever they occur subsequently, the words "or, as the case may be, Vice-Chairman" shall be inserted ; and

(c) the proviso to sub-section (1) shall be omitted.

16. **Amendment of Section 49.**—In the principal Act, for Section 49 including its marginal heading, the following section shall be substituted, namely :—

"49. **Duration of Samiti and elections thereto**—(1) Every Samiti unless sooner dissolved or superseded under this Act, shall continue for five years from the date appointed for its first meeting referred to in clause (a) of sub-section (3) of Section 16, and no longer ;

Provided that a Samiti constituted on the dissolution or supersession of a Samiti before the expiration of its duration shall continue only for the remainder of the period for which the dissolved or, as the case may be,

superseded Samiti would have continued under this sub-section had it not been so dissolved or, as the case may be, superseded.

(2) An election to constitute a Samiti shall be completed—

(a) before the expiry of its duration specified in sub-section (1) ; or

(b) where a Samiti is dissolved or superseded before the expiry of its duration, before the expiration of a period of six months from the date of its dissolution :

Provided that where the remainder of the period for which the dissolved or, as the case may be, superseded Samiti would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Samiti for such period.

17. **Amendment of Section 50.**—In the principal Act, in Section 50,—

(i) in sub-section (1), the word "non-official" shall be omitted ; and

(ii) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) The members of the Samiti including the Chairman and Vice-Chairman shall be paid such sitting fee or daily allowance or both for every meeting they attend as the Government may, by Notification from time to time, determine and all such fees and allowances shall be paid from out of the Panchayat Samiti Fund".

Published in the Orissa Gazette, Extraordinary, dated 9th May, 1994.

THE ORISSA LEGISLATIVE ASSEMBLY MEMBERS' SALARY, ALLOWANCES AND PENSION (AMENDMENT) ACT, 1994

ORISSA ACT 9 OF 1994

An Act further to amend the Orissa Legislative Assembly Members' Salary, Allowances and Pension Act, 1954.

Be it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Orissa Legislative Assembly Members' Salary, Allowances and Pension (Amendment) Act, 1994.

2. **Amendment of Section 4-B.**—In the Orissa Legislative Assembly Members' Salary, Allowances and Pension Act, 19 of 1954, in Section 4-B—

(a) for sub-section (1) excluding the Explanation thereto, the following shall be substituted, namely ; —

"(1) With effect from the commencement of the Orissa Legislative Assembly Members' Salary Allowances and Pension (Amendment) Act, 1994 there shall be paid a pension of seven hundred rupees per mensem to every person who has held office for a period of four years, whether continuous or not, as a member of the Assembly :

Provided that where any person has held office for a period exceeding five years, there shall be paid to him an additional pension of one hundred rupees per mensem for every year in excess of five years ;

Provided further that where any person has held office as a member of Assembly twice for its duration as provided in clause (1) of Article 172 of the Constitution, whether consecutively or not, and who is not entitled to any pension under the foregoing provisions of this sub-section, he shall, with effect from the commencement of the Orissa Legislative Assembly Members Salary, Allowances and Pension (Amendment) Act, 1994, be

entitled to pension of seven hundred rupees per mensem ;

(b) in clause (ii) of the Explanation to sub-section (1), in sub-clause (b), for the words "five years", the words "four years" shall be substituted ;

(c) for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) Where any person entitled to pension under sub-section (1) is entitled to any other pension, such person shall be entitled to receive the pension under sub-section (1) in addition to such other pension." ; and

(d) in clause (b) of sub-section (5), for the words "five years", the words "four years" shall be substituted.

Published in the Orissa Gazette, Extraordinary, dated 29th April, 1994

THE ARBITRATION (ORISSA AMENDMENT) ACT, 1994

ORISSAACT 8 OF 1994

An Act further to amend the Arbitration Act, 1940 in its application to the State of Orissa.

Be it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India, as follows ;—

1. Short title— This Act may be called the Arbitration (Orissa Amendment) Act, 1994.

2. Amendment of Section 41-A—In the Arbitration Act, 10 of 1940 to sub-section (1) of Section 41-A, the following proviso and Explanation shall be added, namely :—

"Provided that the State Government may, by Notification, exempt from the operation of this sub-section any arbitration agreement to which a Company incorporated outside India or a subsidiary thereof which is incorporated in India is a party, if the Government is satisfied that—

(i) such party to the agreement has expressly agreed to adjudication of the dispute by arbitration conducted in accordance with the Arbitration Rules of this United Nation's Commission on International Trade Law and

(ii) any of the authorities specified in this sub section being a party to such agreement has, in the public interest, agreed to such a condition of adjudication, and, in every case where such exemption is made, the Notification shall as soon as it is published in the Gazette, be laid before the Legislative Assembly for a total period of fourteen days which may comprise in one or more session.

Explanation ;—For the purposes of this sub-section,—

(a) "Company" includes anybody corporate ; and

(b) "Subsidiary" means a subsidiary company within the meaning of Section 4 of the Companies Act, 1 of 1956.

Published in the Orissa Gazette, Extraordinary, dated 23rd May, 1994

THE ORISSA CESS (AMENDMENT) ACT 1994

ORISSA ACT 10 OF 1994

An Act further to amend the Orissa Cess Act, 1961.

Be it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India as follows :—

1. Short title and commencement—(1) This Act may be called the Orissa Cess (Amendment) Act, 1994.

(2) This section and Section 13 shall come into force at once, clause (i) of Section 3 and Sections 5, 6 and 7 shall be deemed to have come into force on the 5th day of April, 1991 and the remaining provisions of this Act shall come into force on such date as the State Government may, by Notification appoint.

2. Amendment of Section 2—In the Orissa Cess Act, 11 of 1962 (hereinafter referred to as the principal Act), in sub-section (1) of Section 2, for the word and figure "Schedule 1", the word "Schedule" shall be substituted.

3. Amendment of Section 3—In the principal Act, in Section 3,—

(i) for clause (iv), the following clause shall be substituted, namely—

"(vi) 'land' means land of whatever description and includes land which is covered with water, but does not include—

(a) mineral bearing land as defined in the Orissa Rural Employment, Education and Production Act, 36 of 1992 ; and

(b) houses or building ; and

(ii) clause (viii-a) shall be omitted.

4. Amendment of Section 4—In the principal Act, in Section 4, the second proviso to sub-section (1) shall be omitted.

5. Amendment of Section 5—In the principal Act, for Section 5, the following section shall be substituted namely ;—

"5. (1) The cess shall be assessed on the annual value of all lands on whatever tenure held calculated in the manner hereinafter appearing.

(2) The rate per year at which such cess shall be levied shall be fifty percentum of the annual value of the land with effect from the 5th day of April, 1991 and seventy-five percentum of such value with effect from such date as the State Government may by Notification, appoint."

6. Omission of Section 5-A—In the principal Act, Section 5-A shall be omitted.

7. Amendment of Section 6—In the principal Act, for Section 6, the following section shall be substituted, namely ;—

"(6) (1) Notwithstanding anything contained in any other law, the cess shall be payable by a raiyat for the land he holds to the landlords under whom he holds land.

Explanation—For the purposes of this sub-section, 'landlord' shall include the Government.

(2) Cess shall be paid on such dates and in such manner as may be prescribed.

8. Amendment of Section 7—In the principal Act, for Section 7, the following section shall be substituted, namely ;—

"7. The annual value of land held by a raiyat shall be the rent payable by such raiyat to the landlord under whom he holds the land ;

provided that in case of lands held on payment of rent in kind or partly in cash and partly in kind, the annual value shall be calculated according to the rates of rent assessed for neighbouring lands of a similar description and quality and if such method of calculation is, in the opinion of the Board of Revenue, impracticable in any particular case, according to such

other fair and equitable method which the said Board may approve for that case.

Explanation—For the purposes of this section,—

(i) whatever is lawfully payable or deliverable in money or in kind or in both by a raiyat to his landlord on account of the use and occupation of the land shall be deemed to be rent ; and

(ii) "landlord" includes Government.

9. Omission of Section 9-B—In the principal Act, Section 9-B shall be omitted.

10. Amendment of Section 10—In the principal Act, in Section 10,—

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Notwithstanding anything contained in any other law, all amounts collected as cess shall be credited to the Consolidated Fund of the State and shall be utilised for the following purposes namely—

(a) contribution to Grama Panchayats ; and

(b) Contribution to Samitis ; and

(ii) in sub-section (2), for the words, brackets and letters "clauses (a), (b) and (c)", the words, brackets and letters "clauses (a) and (b)" shall be substituted.

11. Omission of Section 21-A—In the principal Act, Section 21-A shall be omitted.

12. Amendment of Schedule-1—In the principal Act, in Schedule-1, for the word and figure "Schedule-1", the word "Schedule" shall be substituted.

13. Validation—(1) Notwithstanding any judgment, decree or order of any Court all actions taken, things done, Rules made, Notifications issued or purported to have been taken, done, made or issued and cesses realised under the principal Act or on after the 5th day of April, 1991 and before the commencement of this section shall be deemed to have been validly taken, done, made, issued or realised, as the case may be, as if Section 3, 5, 6 and 7 of the principal Act as amended by this Act were in force at all material times when such actions were taken, things were done, Rules were made, Notifications were issued, or cesses were realised and no suit or proceeding shall be maintained or continued in any Court for the refund of the cesses realised under the principal Act.

(2) For the removal of doubts it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any cess paid by him in excess of the amount due from him under the principal Act as amended by this Act.

Published in the Orissa Gazette, Extraordinary, dated 19th September, 1994.

THE ORISSA HOMEOPATHIC (AMENDMENT) ACT, 1994
ORISSA ACT NO. 16 OF 1994

An Act further to amend the Orissa Homeopathic Act, 1956.

Be it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India as follows :—

1. Short title.—This Act may be called the Orissa Homeopathic

(Amendment) Act, 1994.

2. **Amendment of Section 3.**— In the Orissa Homeopatic Act, 1956 (Orissa Act 8 of 1957) (hereinafter referred to as the principal Act), for sub-section (2) of Section 3, the following sub-section shall be substituted, namely :—

"(2) The Board shall consist of seven members including the President, and shall be constituted in the following manner ;—

(a) a President to be nominated by the State Government ;

(b) two renowned Homeopathic Practitioners practising in the State of Orissa whose names validly continue for the time being in the register, to be nominated by the State Government ;

(c) two members to be elected by the Orissa Legislative Assembly from amongst its members in the prescribed manner ;

(d) the Director, Indian System of Medicines & Homeopathy, Orissa ; and

(e) One Lady Social Worker having special interest and knowledge in Indian System of Medicines & Homeopathy ;

Provided that whenever vacancies arise in the offices specified in clause (c) due to dissolution of the Orissa Legislative Assembly, the State Government may fill up the said vacancies by nominating two persons who shall, unless sooner removed, hold office till the date on which the names of the members elected under the said clause by the Assembly after its reconstitution are published in the Gazette and the term of office of the members so elected shall be co-terminus with the term of office of the members nominated under clause (b).

3. **Omission of Section 4**— In the principal Act, Section 4 shall be omitted.

4. **Amendment of Section 5**—In the principal Act, in Section 5, the words "second or every subsequent" shall be omitted.

5. **Amendment of Section 6**—In the principal Act, in Section 6, the words and figures "or nominated under Section 4" shall be omitted.

6. **Amendment of Section 13**— In the principal Act, for sub-section (2) of Section 13, the following sub-section shall be substituted namely :—

"(2) No business shall be transacted at any meeting of the Board unless at least three members are present."

7. **Amendment of Section 21**— In the principal Act, for sub-section (4) of Section 21, the following sub-section shall be substituted, namely :—

"(4) (a) Notwithstanding anything contained in this Act, on and after the commencement of the Orissa Homeopathic (Amendment) Act, 1994 no person save as provided in clause (b) shall be registered—

(i) as a listed Homeopathic Practitioner, or

(ii) as a registered Homeopathic Practitioner, unless he possesses any medical qualification included in the Second or the Third Schedule to the Homeopathy Central Council Act, 69 of 1973.

(b) Any person who, on the date of commencement of the Orissa Homeopathic (Amendment) Act, 1994, validly continues as a Listed Homeopathic Practitioner or Registered Homeopathic Practitioner shall, if he intends to so continue, make an application in the prescribed form and manner to the Registrar for fresh registration as such.

(c) A person, other than a Listed Homeopathic Practitioner or Registered Homeopathic Practitioner, who possesses any medical qualification referred to in sub-clause (ii) of clause (a) and intends to practice Homeopathy, shall make an application in the prescribed form and manner to the Registrar for registration as a Registered Homeopathic Practitioner.

(d) The Registrar shall, if he is satisfied on receipt of an application—

(i) under clause (b), that the person validly continues as a Listed or Registered Homeopathic Practitioner as provided in that clause, cause his name to be entered in the Register as a Listed Homeopathic Practitioner or Registered Homeopathic Practitioner, as the case may be ; or

(ii) under clause (c), that the person is qualified to be Registered as a Registered Homeopathic Practioner, cause his name to be entered in the register as a Registered Homeopathic Practitioner,

subject to payment of such fees in such manner as may be prescribed.

(e) Every person, whose name is so registered under clause (d), shall be provided with a licence in the prescribed form to practice Homeopathy in the State which shall remain valid for the entire life-time of the person unless his name is removed from the register under any of the provisions of this Act.

(f) Notwithstanding anything contained in this Act, if any person, who validly continues as a Listed Homeopathic Practitioner or Registered Homeopatic Practitioner on the date of commencement of the Orissa Homeopathic (Amendment) Act, 1994, fails, without reasonable cause, to obtain a fresh licence in accordance with the provisions of this section before the expiry of—

(i) the period for which he paid his annual fees or as the case may be, the last annual renewal fees ; or

(ii) a period of six months from the date of such commencement,

whichever is later, his name shall be deemed to have been removed from the register with effect from such later date."

8. **Omission of Section 35.**—In the principal Act, Section 35 shall be omitted.

9. **Amendment of Section 36.**—In the principal Act, in Section 36, the words "and renewal of their licences" occurring in clause (b) thereof shall be omitted.

10. **Amendment of Section 52.**—In the principal Act, in Section 52, for the words "by such person and for such period not exceeding six months as they may think fit and shall take steps to bring into existence a new Board" appearing at the end, the words "during the period of such dissolution by such person as they may think fit to appoint and shall take steps to bring into existence a new Board without delay" shall be substituted.

11. **Amendment of Section 54.**—In the principal Act, in Section 54, in clause (a) of sub-section (3), for the word "election" the words "the election" shall be substituted.

12. **Validation.**—Notwithstanding anything contained in the principal Act, any person authorised on or after the 25th October, 1988 under Section 52 of the Act as it stood prior to the commencement of this Act to exercise the powers and perform the duties of the Board beyond the

statutory limit of six months as provided in that section shall, for all intents and purposes, be deemed to have been validly authorised under that section and any action taken or things done by any such person, under the belief or purported belief that he was validly authorised for that purposes, shall be deemed to have been validly taken or done, as if Section 52 of the principal Act as amended by this Act were in force at all material points of time when any such authorisation was made, and accordingly no suit or other legal proceeding shall be instituted, maintained or continued in any Court or Tribunal or before other authority on the ground that any such authorisation was not in accordance with Section 52 of the principal Act.

Published in the Orissa Gazette, Extraordinary, dated 9th September, 1994.

THE ORISSA SPORTS AUTHORITIES ACT, 1994
ORISSA ACT NO. 14 OF 1994

An Act to constitute Sports Authorities for the promotion of Games and Sports and Youth activities in the State and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Orissa in the forty-fifth Year of the Republic of India as follows :—

CHAPTER I
Preliminary

1. **Short title, extent and commencement.**—(1) This Act may be called the Orissa State Sports Authorities Act, 1994.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "District Authority" means the District Sports Authority constituted under Section 11 ;

(b) "Government" means State Government of Orissa ;

(c) "Managing Director" means the Managing Director of the Sports Authority ;

(d) "member" means a member of the Sports Authority or the District Authority, as the case may be ;

(e) "prescribed" means prescribed by Rules ;

(f) "rules" means Rules made by Government under this Act ;

(g) "Sports Authority" means the Sports Authority of Orissa constituted under Section 3 ;

(h) "year" means the financial year ;

(i) "youth activities" means activities relating to youth, adventure, sports, activities for the welfare and promotion of physical fitness of the young persons including building up of character, espirit-de-corps and patriotism through games and sports ;

(j) words and expressions used but not defined in this Act shall have the meanings, if any, respectively assigned to them in the relevant Act.

CHAPTER II
The State Sports Authority

3. **Constitution of State Sports Authority**—(1) The Government shall, by Notification, constitute an Authority called the Sports Authority of

THE

Current Indian Statutes

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MAHARASHTRA & GUJARAT

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namely :—

"FORM "F"
(See Rule 25)
Declaration

I, the undersigned Shri..... Resident of..... Chawl hereby undertake that if I may be given an allotment of house by the Gujarat Slum Clearance Board under the Housing Scheme at....., then I will vacate the original house/hut and shift my house hold kits to above place willingly. I further undertake that I will regularly pay the required deposit and hire purchase instalments as per the Gujarat Slum Areas (Improvement, Clearance and Re-development) Rules, 1975.

This undertaking is given by me after thorough consideration

Name :
Chawl's Name :
Resident :
House No. :

Published in the Gujarat Government Gazette Extraordinary. Part IV-B, dated September 29, 1994.

Home Department

No. . G/G/94/117/MTA/2487/Mini/25/KH.—(*Sachivalaya, Gandhinagar, 28th September, 1994*).—WHEREAS the draft rules further to amend the Bombay Motor Vehicle Tax Rules, 1959. were, published as required by sub-section (1) of section 23 of the Bombay Motor Vehicles Tax Act, 1958 (Bom. LXV of 1958), at page 37-1 and 37-2 of the Gujarat Government Gazette, Extraordinary Part-IV-B, dated the 15th March, 1994, under Government Notification, Home Department No. ; G/G/94 25/MTA/2487/ Mini/25/KH; dated the 6th March, 1994. inviting objections and suggestions from all persons likely to be affected thereby till the 15th April, 1994 :

And Whereas no objections or suggestions were received from any person on the said notification by the Government.

Now, Therefore in exercise of the powers conferred by clause (h) of sub-section (2) of section 23 of the Bombay Motor Vehicles Tax Act, 1958 (Bom. LXI of 1958) read with sub-section (2) of section 13 of the said Act, the Government of Gujarat hereby makes the following rules further to amend the Bombay Motor Vehicles Tax Rules, 1959, namely :—

1. These rules may be called the **Bombay Motor Vehicles Tax (Gujarat Amendment) Rules, 1994.**

2. In the Bombay Motor Vehicles Tax Rules, 1959, in rule 16-A, for clause (11), the following shall be substituted, namely :—

"(11) Tractor-cum-trailers belonging to agriculturists or co-operative societies of agriculturists, if such vehicles are used by such agriculturists, societies or as the case may be, members of such societies, for transportation between the land cultivated by them personally and their place of residence or godown or any market place of agricultural produce grown by them on such land or required by them in connection with the cultivation of such land or of other material required for construction of form house or for personal use of consumption but not for commercial or trade purposes."

Published the Gujarat Government Gazette, Extraordinary Part IV-A. dated October 4, 1994.

Energy & Petrochemicals Department

No. GU/(94)/18/IEA/1094-2848-K.—(*Sachivalaya, Gandhinagar, 4th October 1994*).—In exercise of the powers conferred by sub-rule (2) of rule 7 and clause (a) of sub-rule (2) of rule 46 read with rule 8 of the Indian Electricity Rules, 1956 the Government of Gujarat hereby makes the following order further to amend the Indian Electricity (Fees for inspection, testing and the services of Inspectors) Order, 1985, as following namely :—

1. (i) This order may be called the **Indian Electricity (Fees for inspection, testing and the services of Inspectors) (Amendment) Order, 1994.**

(i) It shall come into force on and from seventeenth October, 1994.

2. In the Indian Electricity (Fees for Inspection, testing and the services of Inspectors) Oorder, 1985 (hereinafter referred to as "the said order") ;—

(i) In clause 3, after sub-clause (4), the following new sub-clause (5) shall be inserted namely :—

"(5) Fees for the services of an Inspector or any Officer appointed to assist the Inspector requisitioned by an owner or a member of the public under rule 60-A of the rules shall be levied in accordance with the rates specified in scale "P" in the Schedule from the persons specified therein" and

(ii) In schedule appended to the said order (a) for the Scale "A" Scale "B" (Part-I), Scale "C" (Part-I) Scale "C" (Part-III), Scale "D" Scale "J" and Scale "N", the following scales shall be substituted namely :-

"SCALE-A"

(1) Rates of fees for an inspection, examination or test made in pursuance of rules 51, 60 to 64 and 65 to 68 of the rules, where energy is or is about to be supplied or used at high, medium and low voltage (except in those cases to which Scales "B" to "N" of this Schedule specifically refer) shall be as under—

Capacity	Fees Rs.
(i) Not exceeding 5 Kilowatts	25-00
(ii) Exceeding 5 Killowatts but not exceeding 10 Killowatts.	50-00
(iii) Exceeping 10 Killowatts but not exceeding 20 Killowatts.	75-00
(iv) Exceeding 20 Killowatts but not exceeding 50 Killowatts.	100 00
(v) Exceeding 50 Killowatts but not exceeding 100 Killowatts.	150-00
(vi) Exceeding 100 Killowatts but not exceeding 250 Killowatts.	400-00
(vii) Exceeding 250 Killowatts but not exceeding 500 Killowatts.	600-00
(viii) Exceeding 500 Killowatts but not exceeding 750 Killowatts.	800-00
(ix) Exceeding 750 Killowatts but not not exceeding 1000 Killowatts.	1000-00
(x) Exceeding 1000 Killowatts but not exceeding 1500 Killowatts.	1200-00

(xi) Exceeding 1500 Killowatts but not exceeding 2000 Killowatts.	1500-00
(xii) Exceeding 2000 Killowatts.	Rs. 1500/+Rs. 250 for every 250 KW or part thereof in excess of 2000 KW subject to maximum of Rs. 5000/-

(2) The fees shall be paid by the owner to whom energy is or is about to be supplied.

SCALE "B (Part-I)"

(1) Rate of fees for an inspection, examination or test of any generating station, receiving station, distributing station or other place in which energy is generated, transformed or distributed at a pressure of 100 Volts or more shall be as under—

Capacity	Fees Rs.
(i) Upto and including 25 KVA.	100-00
(ii) Exceeding 25 KVA but not exceeding 100 KVA	300 00
(iii) Exceeding 100 KVA but not exceeding 500 KVA	1000-00
(iv) Exceeding 500 KVA but not exceeding 1000 KVA	1500-00
(v) Exceeding 1000 KVA but not exceeding 2000 KVA	2000-00
(vi) Exceeding 2000 KVA.	2000.00 + 1000/- for every 500 KVA or part thereof in excess of 2000 KVA subject to maximum of Rs. 150/-.

(2) In the case of generating station, receiving station, distributing station owned by the supplier or other place in which energy is generated, transformed or distributed by the supplier, the fees shall be paid by the supplier. In any other case, the fees shall be paid by the owner.

(3) In the case of inspection of H.T. switch gears controlling the transformer or generators not alongwith the transformers or generators, the capacity of transformers or generators, as the case may be, shall be taken for the purpose of levy of fees.

SCALE "C (Part-I)"

(1) Rates of fees for an inspection, examination or test of any electrical installation, appliances or apparatus in any public place where entertainment as defined in section 2 of the Gujarat Entertainments Tax Act, 1977, is provided shall be as under—

	Fees Rs.
(i) for the initial inspection, examination or test of any electrical installation, appliances or apparatus in a Cinema or a Theatre other than a touring Cinema or other temporary place of public entertainment refered to in clause (iv)	1000.00
(ii) For every subsequent inspection examination or test of the installation, appliance or apparatus in such Cinema or Theatre as is referred to in clause (i)	300.00
(iii) For an inspection, examination or test or any authorized addition or alteration to the electrical installation in a Cinema or a Theatre.	100.00

(iv) (a) For an inspection, examination or test of any electrical installation, appliance or apparatus in a travelling cinema other temporary place of public entertainment. 200.00

(b) For every subsequent inspection, examination or test of any electrical installation, appliance or apparatus in such Cinema or place of public entertainment necessiated on account of a change of place or premises. 100.00

(v) For an inspection, examination or test of any electrical installation, appliance or apparatus in a travelling or temporary Cinema or other temporary place of public entertainment necessiated on account of a change of installation, appliance or apparatus, so as to conform to the rules and regulations governing permanent place of public entertainment. 200.00

(2) The fees shall be paid by the owner.

SCALE "C (Part II)"

(1) Rates of fees for an inspection, examination or test of any electrical installation, appliance or apparatus erected temporarily in any place or premises where entaintainment as defined in Section 2 of the Gujarat Entertainment Tax Act, 1977 is provided.

	Fees Rs-
(i) Installation having capacity upto 10 KW.	75.00
(ii) Installation having capacity exceeding 10 KW but not exceeding 50 KWS.	200.00
(iii) Installation having capacity exceeding 50 KW but not exceeding 100 KW	400 00
(iv) Installation having capacity exceeding 100 KWS.	500.00

(2) The fees shall be paid by the owner.

SCALE "D"

(1) Rates of fees for an inspection, examination, or test of any electrical installation, appliance or apparatus (other than a generating station or a receiving station for which a separate fee will be charged under scale-"B (Part-)". In a factory within the meaning of the Factories Act, 1948 (LXII of 1948) to which energy is supplied by a supplier in which energy is generated shall be as under—

(i) For lighting or for the purposes other than power. Provided that no-fees under this item shall be charged in respect of an electrical installation, appliance or apparatus in any factory where not more than 9 workers are employed.

Capacity	Fees Rs.
(a) Upto and including 10 Kilowatts	30.00 per Killowatt or part thereof.
(b) Exceeding 10 Killowatts but not exceeding 20 Killowatts.	300.00
(c) Exceeding 20 Killowatts but not exceeding 50 Killowatts.	750.00
(d) Exceeding 50 Killowatts but not exceeding 100 Killowatts.	1000.00
(e) Exceeding 100 Killowatts but not exceeding 250 Kws.	1250.00

(f) Exceeding 250 KWS,	1500.00
(ii) For Power.	Fees according to the rates specified in Scale "A".

(2) The fees shall be paid by the owner.

Scale "J"

Rates of fees for the testing of energy meters shall be as under—

(a) For testing in the Laboratory a single meter of any description.	
(i) of a capacity not exceeding 20 amperes.	30 00
(ii) of a capacity exceeding 20 amperes but to exceeding 100 amperes.	100.00
(iii) of a capacity not exceeding 100 amperes but not exceeding 500 amperes,	200.00
(iv) of a capacity exceeding 500 amperes	400.00

Explanation.—In case of meters in use or intended to be used with Current Transformers, the capacity for the purpose of levying fees, is to be taken as the capacity of Current Transformers on their primary side.

(b) If a meter is to be tested on the Consumer's premises, the fees set out in clause (a) shall be increased by Rs. 50,00 meter.

(c) The fees shall be paid by the owner of the meter.

Scale "N"

For deciding any case of difference or dispute arising under section 21(4), 26(4) or 26(6) of or clause V (2) or Clause VI (3) of the Schedule to the Act and under rule 82 (2) (b) of the rules, referred to the Inspector.

Capacity	Fees Rs.
(a) Low or medium Voltage installation.	300.00 for each case.
(b) High or extra High Voltage installation.	1000.00 for each case.

Provided that for every visit of any premises necessary for the purpose of testing or verification of the facts, an additional fees of Rs. 500/- shall be charged for every day or part thereof.

Provided further that in the case of a difference or dispute referred to the Inspector for being decided under Section 26 (6) of the Act, an additional fees for the testing of a meter in accordance with Scale-'J' shall be recoverable.

The fees shall be paid by the person who refers the dispute and by the following new scale "p" shall be inserted, namely :—

"Scale-"P"

Rate of fee for an inspection of an installation provided in multi-storyed Building having the height more than 15 Mts, and issue of a Certificates in pursuance of Rule 50-A.	Rs. 500/- Per building.

The fees shall be paid by the owner/occupier of the building before the final Certificate is issued.".

Published in the Gujarat Government Gazette, Extraordinary, Part IV-B, dated November 23, 1994

SOCIAL WELFARE DEPARTMENT

No. GH/L/24/DNS/1090/703 (94) M.—(*Sachivalaya, Gandhinagar. 24th November. 1994*) —Whereas, draft rules further to amend the Gujarat Methy-Alcohol Rules 1981 were published as required under sub-section (3) of sec-

tion 143 of the Bombay Prohibition Act, 1949 (Bom. XXV of 1949) (hereinafter referred to as "the said Act") at pages 44-1 to 44-2 of the Gujarat Government Gazette, Extraordinary, Part IV B dated the 23rd March, 1994 under Government Notification, Social Welfare Department, No. GH/1 HF/ DNS/1090/1877/93/M, dated the 19th March, 1994 and notice was given thereby to all persons likely to be affected thereby inviting objections and suggestions from them within a period of thirty days from the date of publication of this Notification in the Official Gazette.

And whereas, no objections and suggestions have been received from any person with respect to the said draft rules by the Government.

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 143 of the said Act read with sub-section (3) thereof, the Government of Gujarat hereby makes the following rules further to amend the Gujarat Methyl Alcohol Rules, 1981 namely :

1. These rules may be called the **Gujarat Methyl Alcohol (Amendment) Rules, 1994.**

2. In the Gujarat Methyl Alcohol Rules, 1981 (hereinafter referred to as "the said rules") in rule 3.

(a) for the words "part" the word "art" shall be substituted;

(b) for the words "shall in" the words" shall be in "shall be substituted.

3. In this said rules, for Form "M.A. VIII" the following shall be substituted namely :—

"FORM M. A. VIII
(See Rule 8

Application for a licence for Sale of Methyl Alcohol.

1. Name and full address of the applicant.

2. Place where the applicants shop for selling Methyl Alcohol is situated.

3. Whether Methyl Alcohol was sold in the past at the above place ? If so, the period during which it was sold.

4. Whether the applicant held a licence to sell Methyl Alcohol in the past ? If so, the period during which he held it.

5. Quantity of Methyl Alcohol to be stored at the Shop at any other time.

6. Whether the building where the shop is situated is fire proof ?

7. Number and date of licence, if any, held by the applicent under the Gujarat Poisons (possession and Sale) Rule, 1963.

I hereby declare and undertake to abide by the provisions of the Bombay Prohibition Act, 1949, and rules, regulation or orders made thereunder and the conditions of the licence applied for.

Signature of the applicant.

Published in the Maharashtra Government Gazette, Extraordinary Part IV-Ja, dated December 7, 1994.

Finance Department

No. PEN. 1691/177/SER. 4 (*Mantralaya, Bombay 400032, dated the 7th*

December 1994).—In exercise of the powers conferred by the proviso to article 309 of the Constitution of India, the Government of Maharashtra is hereby pleased to make the following rules further to amend the Maharashtra Civil Services (Pension) Rules, 1982, namely :—

1. (1) These rules may be called the **Maharashtra Civil Services (Pension) (Amendment) Rules 1994.**

(2) In rule 62 of the Maharashtra Civil Services (Pension) Rules, 1982 (hereinafter referred to as "the principal rules").—

(a) after sub-rule (5), the following sub-rule shall be inserted, namely :-

"(5A) Compulsory Retirement Pension, which is a pension granted to a Government servant who is compulsorily retired from Government service as a penalty ; "

(b) in sub rule (6), the words "or required to retire" shall be deleted.

3. For the sub-heading above rule 100 of the principal rules, the following sub-heading shall be substituted, nrmely :—

"**(5A) Compulsory Retirement Pension**"

4. For rule 100 of the principal rules, the following rule shall be substituted, namely :—

"100. Compulsory Retirement Pension —(1) A Government servant compulsorily retired from services as a penalty may by granted, by the authority competent to impose such penalty, pension or gratuity or both at the rate not less than two-third and not more than full compensation pension or gratuity or both admissible to him on the date of his compulsory retirement.

(2) Whenever in the case of a Government servant the Government passes an order (whether original, appellate or in exercise of the power of review) awarding a pension less than the full compensation pension admissible under these rules, the Maharashtra Public Service Commission shall be consulted before such order is passed.

Explanation.—In this sub-rule, the expression "Pension" includes gratuity.

(3) A pension granted under sub-rule (1) shall not be less than the minimum pension as fixed by Government."

5. For rule 101 of the principal rules, the following sub-heading and rule shall be substituted, namely :—

(6) Compassionate Pension

101. Grant of Compassionate Pension in deserving cases by Government.—

(1) A Government servant who is removed from service shall forfeit his pension and gratuity :

Provided that if the case is deserving of special consideration, Government may sanction a Compassionate Pension not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on compensation pension.

(2) A compassionate pension sanctioned under the proviso to sub rule (1) shall not be less than the minimum pension as fixed by Government.

(3) A dismissed Government servant is not eligible for compassionate pension."

6. Rule 102 of the principal rules shall be deleted.

Published in the Maharashtra Government Gazette, Extraordinary, Part IV-Ba, dated December 1, 1994.

CO-OPERATION TEXTILES DEPARTMENT

No. CSL. 1791/CR-16/25-C (*Mantralaya Annexe, Bombay 400032, dated the 25th November 1994.*—In exercise of the powers conferred by paragraphs (a), (e) and (f) of sub-clause (1) of clause 6 and sub clause (a) of clause 9 of the Sugarcane (Control) Order, 1966 read with the notification of Govkrnment of India, Ministry of Food-Agriculture Community Development and Cooperation (Department of Food), No. GSR. 1127/Ess Com Sugarcane, dated the 16th July 1966 and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the following Order further to amend the Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply) Order, 1984, as follows, namely :—

1. This order may be called the Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply) (Third Amendment) Order, 1994.

2. In the Maharashtra Sugar Factories (Reservation of Areas and Regulation of Crushing and Sugarcane Supply) Order, 1984.—

(1) in Schedule 32, after entry 29, following entries shall be inserted :—

" 30. Shelgaon ...	Indapur	5	Do.	Overlapping	Indapur SSK
31. Kalamb ...	Do	5	Do.	Do.	Do.
32. Rangaon ...	Do.	5	Do.	Do.	Do.

(2) in Schedule 34,—

(i) at entry 110.—

(a) in column 7, for the word "Exclusive" substitute the word "overlapping" ;

(b) in column 8, insert the words "Chhatrapati Sahakari Sakhar Narkhana" ;

(ii) at entry 111, in column 8, insert the word "Do".

(iii) at entry 113,—

(a) in column 7, for the word "Exclusive" substitute the word "Overlapping" ;

(b) in column 8, insert the word "Chhatrapati Sahakari Sakhar Karkhana".

Published in the Maharashtra Government Gazette, Extraordinary Part IV-Ba dated November 15, 1994.

CO-OPERATION TEXTILES DEPARTMENT

No. SSK. 1794/6169/CR-176/25-C (*Mantyalaya Annexe, Bombay 400032, dated the 15th November 1994*).— In pursuance of the provisions of sub-clause (3) of clause 6 of the Sugarcane Control Order, 1966 read with sub-clause (b) of clause 11 thereof and the Order of the Government of India in the Ministry of Food, Agriculture Community Development and Co-operation (Development of Food) No. GSR. 1127/Ess. Com./Sugarcane, dated the 16th July 1966 and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the following Order further to amend the Maharashtra Gur Manufacturer's Licensing Order, 1978, namely ;—

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III. Unless renewed, the certificate of registration is valid from..... ....to.....

Date.....

Place.....

By Order
For and on behalf of the
Securities and Exchange Board of India.

.....
Authorised signatory

SCHEDULE II
(Regulation 11)

Securities and Exchange Board of India (Bankers to an Issue) Regulations, 1994

FEES

(1) Every banker to an issue shall subject to clauses 3 and 4 of this Schedule pay registration fees as set out below :

A sum of Rs. 2.5 lakhs to be paid annually for the first two years commencing from the date of initial registration and thereafter for the third year a sum of Rs. 1 lakh to keep his registration in force.

(2) Renewal fees to be paid by the banker to an issue.

A sum of Rs. 1 lakh to be paid annually for the first two years from the date of such renewal and thereafter a sum of Rs. 20,000 per annum for the third year to keep his registration in force.

(3) Fees referred to in clause (1) above shall be paid in the following manner :—

(a) First instalment to be paid within 15 days from the date of intimation from the Board under regulation 7.

(b) Subsequent instalments including the renewal fee to be paid on or before the expiry of 12 months of each year.

(4) The fees indicated above shall be payable by cheque, draft or other instrument in favour of "The Securities and Exchange Board of India" at Bombay.

SCHEDULE III
(Regulation 16)

Securities and Exchange Board of India (Bankers to the Issue) Regulations, 1994

CODE OF CONDUCT

1. A banker to an issue shall, in the conduct of his business, observe high standards of integrity and fairness in all his dealing with his clients, the investors and/or other members of his profession.

2. A banker to an issue shall exercise due diligence, ensure proper care.

A banker to an issue shall not make any statement or become privy to any act, practice or unfair competition, which is likely to be harmful to the interests of other bankers to an issue or is likely to place such other bankers to an issue in a disadvantageous position in relation to the banker to an issue, while competing for or executing any assignment.

3. A banker to an issue shall not make any exaggerated statement, whether oral or written, to the client, either about the qualification or the

capability to render certain services or his achievements in regard to services rendered to other clients.

4. A banker to an issue shall always endeavour to—

(a) render the best possible advice to the clients having regard to the clients' needs and the environments and his own professional skill ; and

(b) ensure that all professional dealings are effected in a prompt, efficient and cost effective manner.

5. A broker to an issue shall not divulge to other clients, the press or any other party any confidential information about his client which has come to his knowledge.

6. A broker to an issue shall not—

(a) allow blank application forms bearing banker's stamp to be kept at the bank premises or peddled anywhere near the entrance of the premises ;

(b) accept applications after office hours or after the date of closure of the issue or on bank holidays.

7. A banker to an issue shall not at any time act in collusion with other agents in a manner that is detrimental to the small investor.

[A banker to an issue shall abide by the provisions of such Acts and rules, regulations, guidelines, resolutions, notifications, directions, circulars and instructions as may be issued from time to time by the Central Government, the Reserve Bank of India, the Indian Banks' Association or the Board and as may be applicable and relevant to the activities carried on by the banker to the issue.]

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), dated 20th September, 1994

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

G.S.R. 697 (E).—*(Dated 20th September, 1994).*—In exercise of the powers conferred by clauses (a) and (b) of sub-section (1) of section 642 of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following rules further to amend the Companies (Central Government's) General Rules and Forms, 1956, namely :—

1. (1) These rules may be called the **Companies (Central Government's) General Rules and Forms (Third Amendment) Rules, 1994.**

(2) They shall come into force with effect from 1st November, 1994.

2. In the Companies (Central Government's) General Rules and Forms 1956, in rule 4A, in sub-rule (1), for the word and figure "Rs. 100", the word and figure "Rs. 500" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), dated 19th July, 1994.

MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS

G.S.R. 585(E).—*(dated 14th July, 1994)*—In exercise of the powers conferred by section 29 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Central Government hereby makes the following rules, namely :—

1. **Short title and commencement.**—(1) These rules may be called the **Securities and Exchange Board of India (Bankers to an Issue) Rules 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

(a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(b) "banker to an issue" means a scheduled bank carrying on all or any of the following activities, namely;

(i) acceptance of application and application monies;

(ii) acceptance of allotment or call monies;

(iii) refund of application monies;

(iv) payment of dividend or interest warrants;

(c) "body corporate" means a body corporate as defined in clause (7) of of section 2 of the Companies Act, 1956 (1 of 1956);

(d) "certificate" means a certificate of registration granted or renewed by the Board under the regulations;

(e) "issue" means issue as defined in clause (d) of rule 2 of the Securities and Exchange Board of India (Merchant Bankers) Rules, 1992;

(f) "Regulations" means the Securities and Exchange Board of India (Bankers to an Issue) Regulations, 1994.

(g) "scheduled bank" means a bank included in the Second Schedule of the Reserve Bank of India Act, 1934 (2 of 1934).

3. **No person can act as banker to an issue without registration.**—(1) No person shall carry on any activity as a banker to an issue unless he holds a certificate granted by the Board under the regulations:

Provided that such person may continue to act as a banker to an issue if he has made the application for such registration under the provision to sub-section (1) of section 12 of the Act till the disposal of such application.

4. **Conditions for grant of renewal of certificate.**—The Board may grant or renew a certificate to a banker to an issue subject to the following conditions, namely:—

(a) he shall enter into a legally binding agreement with the body corporate for or on whose behalf he is acting as banker to an issue stating therein the duties and responsibilities between himself and the body corporate for the issue for which he is acting as a banker to an issue;

(b) he shall pay the amount of fees for registration in the manner provided in the regulations;

(c) he shall take adequate steps for redressal of grievances of the investors within one month of the date of the receipt of the complaints and he shall keep the Board informed about the number, nature and other particulars of the complaints received and the manner in which such complaints have been redressed, and

(d) the certificate granted shall be valid for a period of three years from the date of the grant of the same.

5. **Conditions of grant of renewal of certificate.**—The Board may grant the renewal of the certificate to an issue subject to the conditions mentioned in sub rules (a) to (d) of rule 4.

Published in the Gazette of India, Extraordinary, Part II, Sector 3(i), dated 29th September, 1994

MINISTRY OF INFORMATION AND BROADCASTING

G.S.R. 729(E).—*(dated 19th September, 1994)*.—In exercise of the powers conferred by sub-section (1) of Section 22 of the Cable Television Networks (Regulation) Ordinance, 1994 (Ordinance No. 9 of 1994) the Central Government makes the following rules, namely :—

1. **Short title and commencement.**—(1) These rules may be called the Cable Television Networks Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.**—In these rules unless the context otherwise requires :—

(a) "cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network ;

(b) "cable service" means the transmission by cables of programmes including re-transmission by cables of any broadcast television signals ;

(c) "cable television network" means any system consisting of a set of closed transmission paths and associated signals generation, control and distribution equipment, designed to provide cable service for reception by multiple subscribers ;

(d) "company" means a company defined in Section 3 of the Companies Act, 1956 ;

(e) "form" means form appended to these rules ;

(f) "person" means : —

(i) an individual who is a citizen of India ;

(ii) an association of individuals or body of individuals, whether incorporated or not, whose members are citizens of India ;

(iii) a company in which not less than fifty-one per cent of the paid-up share capital is held by the citizens of India ;

(g) "Programme" means by television broadcast and includes :—

(i) exhibition of films, features, dramas, advertisements and serials through video cassette recorders or video cassette players ;

(ii) any audio or visual or audio-visual live performance or presentation : and the expression "programming service" shall be construed accordingly ;

(h) "registering authority" means the registering authority notified under clause (b) of Section 2 of the Cable Television Networks (Regulation) Ordinance, 1994 ;

(i) "subscriber" means a person who receives the signal of cable television network at a place indicated by him to the cable operator, without further transmitting it to any other person.

3. **Application for registration as a cable television network in India.**—

(1) Every application for registration as a cable television network in India shall be made in writing in Form 1 and shall be renewable after every twelve months.

(2) The application shall be addressed to the Registering Authority and delivered to his office in Form 1.

(3) Every application shall be accompanied :—

(a) a fee of Rs. 50/ vide Postal Order No .....dated.....on..... Post Office ; and

(b) the requisite documents mentioned in Form 1 and 2.

4. **Examination of Applications.**—On receipt of an application under

Rule 3 the registering authority shall examine the application having regard to the provisions of Section 4 of the Ordinance.

5. **Registration.**—On being satisfied that the applicant fulfils the provisions of the Ordinance, the registering authority shall issue a registering certificate in Form 3 :

Provided that where the registering authority is satisfied that the registration cannot be granted to the applicant, he shall inform the applicant in Form 4.

6. **Programme Code.**—(1) No programme should be carried in the cable service which : –

(a) Offends against good taste or decency ;

(b) Contains criticism of friendly countries ;

(c) Contains attack on religions or communities or visuals or words contemptuous of religious groups or which promote communal attitudes ;

(d) Contains anything obscene, defamatory, deliberate, false and suggestive innuendos and half-truths ;

(e) Is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote anti-national attitudes ;

(f) Contains anything amounting to contempt of court ;

(g) Contains aspersions against the integrity of the President and Judiciary ;

(h) Contains anything affecting the integrity of the Nation ;

(i) Criticizes, maligns or slanders any individuals in person or certain groups, segments of social, public and moral life of the country ;

(j) Encourages superstition or blind belief ;

(k) Denigrates women through the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being indecent, or derogatory to women, or is likely to deprave, corrupt or injure the public morality or morals ;

(l) Denigrates children ;

(m) Contains visuals or words which reflect a slandering, ironical and snobbish attitude in the portrayal of certain ethnic, linguistic and regional groups ;

(n) Contravenes the provisions of the Cinematograph Act, 1952.

(2) The cable operator should strive to carry programmes in his cable service which project women in a positive, leadership role of sobriety, moral and character building qualities.

(3) Programmes meant for adults should normally be carried in the cable service after 11 p m. and before 6 a.m.

(4) Care should be taken to ensure that programmes meant for children do not contain any bad language or explicit scenes of violence.

(5) Programmes unsuitable for children must not be carried in the cable service at times when the largest number of children are viewing.

7. **Advertising Code.**—(1) Advertising carried in the cable service shall be so designed as to conform to the laws of the country and should not offend morality, decency and religious susceptibilities of the subscribers.

(2) No advertisement shall be permitted which :—

(i) derides any race, caste, colour, creed and nationality ;

(ii) is against any provision of the Constitution of India ;

(iii) tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way ;

(iv) presents criminality as desirable ;

(v) exploits the national emblem, or any part of the Constitution or the person or personality of a national leader or a State dignitary ;

(vi) in its depiction of women violates the Constitutional guarantees to all citizens. In particular, no advertisement shall be permitted which projects a derogatory image of women. Women must not be portrayed in a manner that emphasises passive, submissive qualities and encourages them to play a subordinate, secondary role in the family and society. The cable operator shall ensure that the portrayal of the female form, in the programmes carried in his cable service is tasteful and aesthetic, and is within the well established norms of good taste and decency ;

(vii) Exploits social evils like dowry, child marriage.

(3) No advertisement shall be permitted the objects whereof are wholly or mainly of a religious or political nature ; advertisements must not be directed towards any religious or political end.

(4) The goods or services advertised shall not suffer from any defect or deficiency as mentioned in Consumer Protection Act, 1986.

(5) No advertisement shall contain references which are likely to lead the public to infer that the product advertised or any of its ingredients has some special or miraculous or super natural property or quality which is difficult of being proved.

(6) The picture and the audible matter of the advertisement shall not be excessively 'loud'.

(7) No advertisement which endangers the safety of children or creates in them any interest in unhealthy practices or shows them begging or in an undignified or indecent manner shall not be carried in the cable service.

(8) Indecent, vulgar, suggestive, repulsive or offensive themes or treatment shall be avoided in all advertisements.

(9) No advertisement which violates the standards of practice for advertising agencies as approved by the Advertising Agencies Association of India, Bombay from time to time shall be carried in the cable service.

(10) All advertisements should be clearly distinguishable from the programmes and should not in any manner interfere with the programme viz., use of lower part of screen to carry captions, static or moving alongside the programme.

8. **Register.**—Each cable operator shall maintain a register in Form 5 for each month of the year for which the registration is granted.

FORM I

[See Rule 3(i)]

(To be submitted in duplicate)

Form of application for registration/renewal of registration as as cable operator

To

The Head Postmaster

Head Post Office

Application for registration/renewal of registration as a cable operator

1. (a) Name of Applicant (individual/firm/company/association of persons/body of individuals)*

(b) Age

2. (a) Address (Office)

(b) Telephone number (if any)

3. (a) Nationality

(b) By birth/domicile

4. (a) Registration fee enclosed Yes/No

(b) Postal Order No.....dated.....on..... Post Office.

5. Area in which cable television network is working/proposed to be set up.

6. Number of channels being provided/proposed to be provided (with names).

7. (a) Whether using TVRO Yes/No

(b) If Yes number and size

(c) Location

8. Names of Doordarshan satelite channels included in cable service.

9. Copy of earlier registration certificate enclosed).

(To be filled in only for renewal registration) Yes/No

10. Declaration in Form 2 enclosed Yes No

I/We.....the applicant(s) (individual/firm/company/association of persons/body of individuals) do hereby declare that the above facts are correct in all respects.

Signature of Applicant
(individual/firm/company/
association of persons/
body of individuals)

Place :
Date :

Name
Address

* Score out the word or words which are not applicable.

FORM 2

[See Rule 3(1-3)]

I/We.....the applicant(s) (individual/firm/company/association of persons/body of individuals)* for registration as a cable operator/* renewal of registration as a cable operator do hereby declare that :—

(i) I/We shall ensure that my/our cable television network shall be run in accordance with the provisions of the Cable Television Networks (Regulation) Ordinance, 1994 at all times.

(ii) I/We shall not permit/associate any person who is not eligible to run a cable television network under the Cable Television Networks (Regulation) Ordinance, 1994 to run/with the running of my/our cable television network.

(iii) I/We shall strive to the best of my/our ability to provide cable service to the satisfaction of the subscriber(s) of my/our cable television network.

(iv) I/We shall strive to the best of my/our ability to ensure that my/our cable television network is not used for any unlawful purpose.

(v) I/We shall obtain the necessary approval/clearance from the relevant authority for the running of my/our cable television network.

(vi) I/We shall abide by any direction issued by the Central Govern-

ment in respect of the running of a cable television network within India.

Signature of Applicant
(individual/firm/company/
association of persons/
body of individuals)

Name.....
Address.....

Place :
Date :

*Score out the word or words which are not applicable.

FORM 3
(See Rule 5)
Government of India
Head Post Office

REGISTRATION CERTIFICATE
NUMBER

Shri/Shrimati/Ms.....resident of.....is registered as a cable operator (individual, firm, company, association of persons or body of individuals)* for running a cable television network at the following address..... in the city/town of.....for a period of twelve months with effect from..... His Registration Number is.....

2. This Certificate is only valid for the premises stated above.

3. This Registration Certificate is not transferable.

4. The Certificate shall remain valid for the period indicated above or till the holder carries on the cable service or where the surrender of the certificate is accepted by the competent authority.

Head Post Master
Head Post Office
.....(town/city)

Place :
Date :

TO BE DISPLAYED PROMINENTLY ON THE PREMISES OF THE CABLE OPERATOR

*Tick whichever is appropriate.

FORM 4
[See proviso to Rule 5(3)]

To

.....

Sir,

Reference your application dated.....for registration as a cable operator. The necessary registration cannot be granted to you for the following reason(s) :—

(i) Application is incomplete.

(ii) Registration fee has not been tendered.

(iii) Applicant is not a citizen of India.

(iv) Less than fifty one per cent of the paid-up share capital of the applicant company is held by citizen of India.

Head Post Master
Head Post Office

FORM 6
(See Rule 8)
Form of register to be maintained by each cable operator

Sl. No.	Encrypted channel Programme	Duration From	To	Date	Month	Year
1	2	3	4	5	6	7

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), dated 29th September, 1994.

MINISTRY OF INFORMATION AND BROADCASTING

S.O. 718 (E).—(*Dated September 29, 1994*).—In exercise of the powers conferred by clause (h) of Section 2 of the Cable Television Networks (Regulation) Ordinance, 1994, the Central Government hereby notifies the Head Post Master of a Head Post Office, of the area within whose territorial jurisdiction the office of the Cable Operator is situated, as the Registering Authority for registering cable television networks in the said area for the purposes of the said Ordinance.

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 239, dated 12th May, 1994.

MINISTRY OF FINANCE

S.O. 370 (E).—(*Dated May 12, 1994*).—In exercise of the powers conferred by Section 295 of the Income Tax Act, 1961 (43 of of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income Tax Rules, 1962, namely :—

1. (1) These rules may be called the Income Tax (Second Amendment) Rules, 1994.

(2) They shall come into force with effect from the 15th day of May, 1994.

2. In the Income Tax Rules, 1962, in Appendix-II, for Form No. 49-A, the following Form shall be substituted, namely :—

"FORM NO. 49-A
(See Rule 114)
Form of Application for Allotment of Permanent Account Number under Section 139-A of the Income Tax Act, 1961

To

The Assessing Officer
.....
.....
.....

Please affix your recent photograph (3.5 cm x 2.5 cm) (In case of individuals only)

Sir,

Whereas my/our total income/the total income of..... (name)

in respect of which I/We am/are assessable under the Income Tax Act, 1961, during the accounting year ending on exceeded rupees ....., the maximum amount which is not chargeable to income tax.

Whereas my/our case does not fall under sub-section (1) of Section 139-A and I am/we are carrying on a business the total sales/turnover/gross receipts of which are or is likely to exceed fifty thousand rupees in the accounting year ending on

Whereas my/our case does not fall under sub-section (1) of Section 139-A, and I am/we are required to furnish a return of income under sub-section (4-A) of Section 139 for the accounting year ending on

And whereas no permanent account number has been allotted to me/us ;

I/we hereby request that a permanent account number be allotted to me/us ;

I/we give below the necessary particulars :—

1. Full Name Shri/Smt/Kumari/M/s (Delete whichever is not applicable)
Last Name/Surname* First Name* Middle Name*

2. Have you ever been known by any other name — Tick as applicable Yes Y No N — If yes, please give other name (In the case of Individuals only)
Full name Shri/Smt/Kumari — Delete whichever is not applicable
Last Name/Surname — First Name — Middle Name

3. Address
A. Residential Address
Flat/Door/Block No.
Name of Premises/Building
Road Street/Lane
Area/Locality
Town/City/District Pin

B. Office Address
Name of Office
Flat/Door/Block No.
Name of Premises/Building
Road/Street/Lane
Area/Locality
Town/City/District Pin

4. Address for Communication Tick as applicable A or B Tel. No., if any

*Please write Last Name/Surname, First Name and Middle Name only in the case of Individuals

5. Status of the Assessee Tick as applicable
Individual I Firm P Body of Individuals B

Hindu Undivided Family	H	Association of Persons	A	Local Authority	L
Company	C	Association of Persons (Trusts)	T	Artificial Juridical Person	J

6. If an Individual please give Father's Name First Name
Last Name/Surname

Middle Name

7. Sex (Individuals, only) Tick as applicable Male [✓] [M] Female [F]

8. Date of Birth/Incorporation
DD MM YYYY

9. Whether citizen of India (Individuals only) Tick as applicable Yes [✓] [Y] No [N]

10. Registration number (in case of firms, companies, etc.)

11. Source(s) of income
Salaries House Property Business or Profession Capital Gains Income from other sources

12. Particulars of business, if any
Head Office
Name of office
Flat/Door/Block No.
Name of Premises/Building
Road/Street/Lane
Area/Locality
Town/City/District Pin
Nature of Business T.A.N., if any
Date of commencement No. of branches
DD MM YYYY
Branches (if required, please add separate sheet for each branch)
Name of Branch
Flat/Door/Block No.
Name of Premises/Building
Road/Street/Lane
Area/Locality
Town/City/District Pin
Nature of Business T.A.N., if any
Date of commencement No. of branches
DD MM YYYY

13. If Firm/Hindu Undivided Family/Association of Persons/Body of Individuals/Company, the names, addresses etc. of partners/members/directors

Details of Partners/Directors/Members
(a) Number of Partners/Directors/Members
(The information in items (b) and (c) should be given in separate sheet)

in the format given below)

(b) Full Name Shri/Smt./Kumari/M/s (Delete whichever is not applicable)

Last Name/Surname Middle Name First Name

(c) Address

Flat/Door/Block No.

Name of Premises/Building

Road/Street/Lane

Area/Locality

Town/City/District Pin

14. Full name, address etc. of other person in respect of whose total income the applicant is assessable under the Income Tax Act.

Full Name Shri/Smt./Kumari/M/s (Delete whichever is not applicable)

Last Name/Surname First Name

Flat/Door/Block No.

Name of Premises/Building

Road/Street/Lane

Area/Locality

Town/City/District Pin

I/We, , the applicant, do hereby declare that what is stated above is true to the best of my/our information and belief.

Verified today, the day of month, 19————

(Signed)

(Applicant)

For Office Use

1. Permanent Account Number allotted
2. Date of allotment of Permanent Account Number

DD MM YYYY"

Published in the Gazette of India, Extraordinary, Part III, Section 4, dated 24th March, 1994.

BOARD FOR INDUSTRIAL & FINANCIAL RECONSTRUCTION

No. 1(5)/BC/94.—(*dated 24th March, 1994*).—In exercise of the powers conferred by section 13 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1985); the Board for Industrial and Financial Reconstruction hereby makes the following regulations further to amend the Board for Industrial and Financial Reconstruction Regulations, 1983, namely :—

1. These regulations may be called the Board for Industrial and Financial Reconstruction (Amendment) Regulations, 1994.

2. They shall come into force on the date of their publication in the Official Gazette.

3. Regulation 3 (Definitions)—

(i) In clause (e) "informant", the words "and a person making a report to the Board under sub-section (1) of section 23A" shall be added at the end.

(ii) In clause (g) "operating agency", the words "State level institution, scheduled bank or any other person" shall be added after the words

"public financial institution".

(iii) In clause (h) "persons interested", the word "industrial", occurring in the second, fourth and sixth lines, shall be omitted.

4. In regulation 14, sub-regulation (3), for the word "Board", the word "Chairman" shall be substituted.

5. In regulation 19, for sub-regulations (4), (5), (6) and (7), the following shall be substituted ;—

(4) On receipt of a reference in the office of the Board, the date on which it is filed or received in the office of the Board along with the endorsement "received subject to verification that the reference is in order" shall be stamped.

(5) If on scrutiny, the reference is found to be in order, it shall be registered, assigned a serial number and submitted to the chairman for assigning it to a Bench. Simultaneously, remaining information/documents required, if any, shall be called for from the informant.

(6) If on scrutiny, the reference is not found to be in order, the secretary or, as the case may be, the Registrar may, by order, decline to register the reference and shall communicate the same to the informant.

(7) A reference declined to be registered shall be deemed not to have been made.

6. In the first proviso to regulation 28,—

(i) The word "industrial" wherever occurring except in the expressions "sick industrial company" in the second and third lines, shall be omitted.

(ii) The word "or vice-a-versa" be added after the word "company" in the third line.

7. In regulation 29, the word "industrial" shall be omitted in the ninth and tenth lines.

8. In regulation 30, the word "industrial" shall be omitted in the fourth and sixth lines.

9. In regulation 31,—

(i) The words "of the sick industrial company with another industrial company", in the second and third lines shall be omitted.

(ii) The words "transferee industrial company,", occurring in the fifth, sixth and seventh lines, shall be substituted by "the company other than the sick industrial company".

10. In regulation 34,—

(i) sub-regulation (2), the words and figures, "or within such further period not exceeding 60 days as may be allowed by the Board If no such consent is received, it shall be deemed to have been given" shall be inserted at the end ;

(ii) sub-regulation (3), the words "or when consent is deemed to have been given" shall be added after the words "every person" in the first line.

11. In Chapter VIII—

(1) For the existing heading, "Reports under sections 23 and 23A" shall be substituted.

(2) The existing regulation 36 shall be renumbered as regulation 36(1) and the following sub-regulations shall be added under the foregoing :—

"(2) Reports of erosion of net worth within the meaning of sub-section (1) of section 23A shall be made in Form "D" in respect of an industrial

company other than a Government company and in Form "DD" in respect of a Government company and shall be accompanied by five further copies thereof.

(3) On receipt of a report in Form "D" or, as the case may be, in Form "DD" the same shall be submitted through the secretary, to the chairman for assigning the case to a Bench for dealing with the same in accordance with the provisions of the Act."

18. For the existing forms, "A", "AA", "B", "BB", "C", "CC", the following forms shall be substituted, namely :—

FORMS

(Omitted)

Published in the Gazette of India, Extraordinary, Part II, Section 1, No. 412, dated 30th September, 1994.

MINISTRY OF FINANCE

No. G.S.R. 735(E).—*(dated 30th September 1994).*—In exercise of the powers conferred by section 157 read with section 6 of the Customs Act, 1962 (52 of 1962), the Central Board of Excise and Customs hereby makes the following regulations, namely :—

1. **Short title and commencement.**—(1) These regulations may be called the Import of Gold and Silver by Passengers (Form of Bill of Entry) Regulations, 1994.

(2) They shall come into force on the 1st day of November, 1994.

2. Form of Bill of Entry.—The bill of entry to be presented for ex-bond clearance for home consumption of gold or silver from a customs bonded warehouse by a passenger coming into India shall be in the form appended to these Regulations.

Form of bill of entry to be filed by a passenger intending to take delivery of gold or silver from a Customs Bonded Warehouse in India

(PART A)

(To be completed by the passenger)

1.	Name of the airport	: .....
2.	Flight No. and date	: .....
3.	Name of passenger	: .....
4.	Passport No.	: .....
5.	Description of good	: .....
6.	Quantity	: .....

I apply for the permission to clear the gold/silver, as per the particulars given above, from the customs bonded warehouse subject to the provisions of the Customs Act, 1962 (52 of 1962).

Place : ....

(Signature of the passenger with date)

(PART B)

(To be completed by the Air Customs Officer)

7.	Customs Tariff Heading No.	: .....
8.	Rate of Duty	: .....
	Exemption Notification No.	: .....
9.	Duty assessed	
(a)	in words	: .....

(b) in figures : .....

Verified the particulars from the passport of the passenger. The passenger is eligible to clear the gold/silver from customs bonded warehouse in terms of Notification No.....dated.....

date.....

.....

(Signature of the A.C.C.)
(Counter signature by ACS)

(PART C)

(To be completed by the bank counter receiving customs duty)

10. Duty recovered in convertible foreign currency equivalent to Indian rupee

(a) in words : .....
(b) in figures : .....

date : .....

.....

(Signature and seal of the bank officer)

(PART D)

(To be completed by the Customs Officer at the airport)

Passed out of customs charge

date : .....

.....

(Signature of the Customs Superintendent)

(PART E)

(To be completed by the warehouse keeper giving delivery)

11. Description : .....
12. Marks and Nos. : .....
13. Quantity delivered : .....
14. Bond No. : .....

Place : .....

Date : .....

.....

(Signature of warehouse keeper with seal)

Received the gold/silver as per particulars mentioned above.

.....

(Signature of the passenger taking delivery with date)

(PART F)
(For audit)

15. Amount of short recovery : .....
16. Amount of excess recovery : .....

Date : .....

.....

(Signature of the audit officer)

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 370, dated July 20, 1994.

MINISTRY OF HOME AFFAIRS

S.O. 538 (E).—*(New Delhi, the 20th July, 1994)*.—In exercise of the powers conferred by sub-section (2) of section 1 of the Code of Criminal Procedure (Amendment) Act, 1993 (40 of 1993), the Central Government hereby appoints the date of the publication of this notification in the Official Gazette as the date on which the said Act shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 443, dated September 6, 1994.

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

S.O. 644 (E).—*(New Delhi, the 6th September, 1994).*—In exercise of the powers conferred by sub-section (2) of section (1) of the Nagaland University Act, 1989 (55 of 1989), the Central Government hereby appoints the 6th day of September, 1994 as the date on which the said Act shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 397, dated June 28, 1994.

MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION

S.O. 479 (E).—*(New Delhi, the 28th June, 1994).*—In exercise of the powers conferred by section 3 of the Essential Commodities, Act, 1955 (10 of 1955), the Central Government hereby makes the following order further to amend the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Order, 1977, namely :—

1. (1) This Order may be called the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Fourth Amendment Order, 1994.

(2) It shall come into force from the 1st day of July, 1994.

2. In the Pulses, Edible Oilseeds and Edible Oils (Storage Control) Order, 1977, for clause 7, the following clause shall be substituted, namely :—

"7. Order not to apply in certain cases.—Nothing in this order shall apply to—

(a) (i) a Corporation or a Company owned or controlled by the Central Government or a State Government or a Statutory Corporation, or

(ii) a Central level or a State level cooperative society,

engaged in the production, procurement, sale, purchase or distribution of pulses ; and

(b) (i) a Corporation or a Company owned or controlled by the Central Government or a State Government or a Statutory Corporation, or

(ii) a Central level or a State level cooperative society,

engaged in the production, procurement, sale, purchase or distribution of edible oilseeds and edible oils and in the public interest notified in the Official Gazette by Central Government from time to time."

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 609, dated December 7, 1994.

MINISTRY OF HEALTH AND FAMILY WELFARE

G.S.R. 853 (E).—*(New Delhi, the 7th December, 1994).*—Whereas a draft of certain rules further to amend the Prevention of Food Adulteration Rules, 1955 was published as required by sub-section (1) of section 23 of the Prevention of Food Adulteration Act, 1954 (37 of 1954) with the notification of the Government of India, in the Ministry of Health and Family Welfare (Department of Health) GSR 613 (E), dated the 9th August, 1994 in the Gazette of India, Extraordinary, Part II, Section 3, sub-section (i), dated the 9th August, 1994, inviting objections and suggestions from all persons likely to be affected thereby and notice was thereby given that said draft

would be taken into consideration on or after the expiry of a period of forty-five days from the date on which the Gazette copies of the said notification were made available to the public ;

And whereas the copies of the Gazette were made available to the public on 11th August, 1994.

And whereas, the objections and suggestions received from the public on the said draft rules have been considered by the Central Government.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 23 of the said Act, the Central Government after consultation with the Central Committee for Food Standards, hereby makes the following rules further to amend the Prevention of Food Adulteration Rules, 1955, namely :—

1. (1) These rules may be called the Prevention of Food Adulteration (18th Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Prevention of Food Adulteration Rules, 1955, in rule 59,—

After the fifth proviso, the following proviso shall be inserted, namely :—

"Provided further that ready-to-eat dry breakfast cereals may contain Butylated Hydroxyanisole (BHA) not exceeding 0.005 per cent (50 ppm)"'

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 782, dated September 12, 1994.

MINISTRY OF PETROLEUM & NATURAL GAS

G.S.R. 686 (E).—(*New Delhi, the 12th September, 1994*).—In exercise of the powers conferred by sections 5 and 6, read with sub-section (5) of section 6A of the Oilfields (Regulation and Development) Act, 1948 (53 of 1948), the Central Government hereby makes the following rules further to amend the Petroleum and Natural Gas, Rules, 1959, namely :—

1. (1) These rules may be called the Petroleum and Natural Gas (Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Petroleum and Natural Gas Rules, 1959, in rule 14, in sub-rule (1), for the portion starting with the words "a royalty with effect from the 1st day of April, 1987" and ending with the words "obtained by the lessee", the words "a royalty for the period beginning on the 1st day of April, 1990 and ending on the 31st day of March, 1993, at the rate of four hundred and eighty one rupees per metric tonne of crude oil and casing head condensate and at ten per cent of the value at well-head of natural gas obtained by the lessee", shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 566, dated September 1, 1994.

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

G.S.R. 664 (E).—(*New Delhi, the 1st September, 1994*).—In exercise of the powers conferred by sub-section (2) of section 1 of the Institutes of Technology (Amendment) Act, 1994 (35 of 1994), the Central Government hereby appoints the 1st day of September, 1994 as the date on which the

said Act shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 583, dated September 13, 1994.

MINISTRY OF FINANCE

G.S.R. 689 (E).—*(New Delhi, the 13th September, 1994)*.—In exercise of the powers conferred by section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called the **Central Excise (Tenth Amendment) Rules, 1994**.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Chapter V of the Central Excise Rules, 1944, in the annexure below rule 57-Q, in item (ii) the figures "51.01, 51.02, 51.05 and 51.07" shall be omitted.

Published in the Gazette of India, (Extra.), Part II Section 3(ii), No. 604, dated December 2, 1994.

MINISTRY OF FOOD

S O 865(E).—*(New Delhi, the 2nd December, 1994)*.—In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order to amend the Gur (Control) Order, 1994, namely :—

1 (1) This Order may be called the **Gur (Control) (Amendment) Order, 1994**.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Gur (Control) Order, 1994, for paragraph 3, the following paragraph shall be substituted, namely :—

"3. **Purchase, sale and storage of Gur.**—(1) No person other than a dealer shall carry on the business of purchase and sale of gur.

(2) The dealer shall declare the quantity of stocks of gur held by him on the 1st day of each month to such authority, as may be appointed by the State Government.

(3) No dealer shall hold any stock of gur in excess of 4000 quintals at any time".

Published in the Gazette of India, (Extra.), Part II, Sec. 3(i), No. 392, dated September 20, 1994.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

G.S.R. 697(E).—*(New Delhi, the 20th September, 1994)*.—In exercise of the powers conferred by clauses (a) and (b) of the sub-section (1) of section 642 of the Companies Act, 1956 (1 of 1956), the Central Government hereby makes the following rules further to amend the Companies (Central Government's) General Rules and Forms, 1956, namely :

1. (1) These rules may be called the **Companies (Central Government's) General Rules and Forms (Third Amendment) Rules, 1994**.

(2) They shall come into force with effect from 1st November, 1994.

2. In the Companies (Central Government's) General Rules and Forms, 1956, in rule 4A, in sub-rule (1), for the word and figure "Rs. 100", the word and figure "Rs. 500" shall be substituted.

Published in the Gazette of India, (Extra.), Part II Sec. 3(i), No. 304, dated July 19, 1994.

MINISTRY OF HOME AFFAIRS

G.S.R. 589(E).- (*New Delhi, the 19th July, 1994.*—In exercise of the powers conferred by sub-section (1) of section 18 of the Census Act, 1948 (37 of 1948), the Central Government hereby makes the following amendments in the Census Rules, 1990, namely :-

1. **Short title and commencement.**—(1) These rules may be called the Census (Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Census Rules, 1990 (hereinafter called the said rules), in rule 2, after clause (j), the following clause shall be inserted, namely :-

"(k) All other words and expressions used herein and not defined but defined in the Act, shall have the meanings respectively assigned to them in the Act.".

3. In rule 4, for the words, "the State Governments and the Union Territory Administrations" the words "The Central Government" shall be substituted, and for the words "within the jurisdiction of the State or Union Territory concerned" the words "for the States and the Union Territories" shall be substituted.

4. In rule 6, for the words "State Government", the words "Central Government" shall be substituted.

5. After rule 6, the following rules shall be inserted, namely :—

"6A. **Declaration of the date and duration of Census.**—The Central Government may by a notification published in the Official Gazette declare the date for the commencement of the census and the period during which the houselisting operations and population census shall take place.

6B. **Manner of serving the order of requisition of premises and vehicles.**—An order of requisition under section 7A, shall be served —

(a) where the person to whom such order is addressed is a corporation or firm —

in the manner provided for the service of summons in rule 2 of order XXIX or rule 3 of order XXX, as the case may be, in the first Schedule to the Code of Civil Procedure, 1908 (Act V of 1908) ; and

(b) where the person to whom such order is addressed is an individual—

(i) personally by delivering or tendering the order, or

(ii) by registered post, or

(iii) if the person cannot be found, by leaving an authentic copy of the order with any adult member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

6C. **Time for application for reference to arbitration under section 7B.**—The time within which any interested person, who is aggrieved by the amount of compensation determined under section 7B may make an appli-

cation for referring the matter to arbitration shall be fourteen days from the date of determination of the amount of such compensation or where the amount of such compensation has been determined in the absence of the person interested or, as the case may be, the owner, fourteen days from the date on which the intimation of such determination is sent to that person or owner.

6. In rule 8,—

(a) after item (i), the following item shall be inserted, namely :—

"(ia) republish the census schedules and questionnaries notified by the Central Government in their States or Union Territory Gazettes".

(b) in item (iii) for the word "publish" the word "republish" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 1, dated 1st January, 1995.

MINISTRY OF FINANCE

No. G. S. R. 1 (E).—*(Dated 1st January, 1995).*—In exercise of the powers conferred by sub-section (6) of section 9A and sub-section (2) of section 9B of the Customs Tariff Act, 1975 (51 of 1975), and in supersession of the Customs Tariff (Identification, Assessment and Collection of Duty or Additional Duty on Dumped Articles and for Determination of Injury) Rules, 1985, except as respect things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely :—

1. Short title and commencement.—(1) These rules may be called the **Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995.**

(2) They shall come into force on the 1st day of January, 1995.

2. Definitions.—In these Rules, unless the context otherwise requires,—

(a) "Act" means the Customs Tariff Act, 1975 (51 of 1975) ;

(b) "domestic industry" means the domestic producers as a whole engaged in the manufacture of the like article and any activity connected therewith or those whose collective output of the said article constitutes a major proportion of the total domestic production of that article except when such producers are related to the exporters or importers of the alleged dumped article or are themselves importers thereof in which case such producers shall be deemed not to form part of domestic industry :

Provided that in exceptional circumstances referred to in sub-rule (3) of rule 11, the domestic industry in relation to the article in question shall be deemed to comprise two or more competitive markets and the producers within each of such market a separate industry, if –

(i) the producers within such a market sell all or almost all of their production of the article in question in that market, and

(ii) the demand in the market is not in any substantial degree supplied by producers of the said article located elsewhere in the territory ;

(c) "interested party" includes –

(i) an exporter or a foreign producer or the importer of an article subject to investigation for being dumped in India, or a trade or business association a majority of the members of which are producers, exporters or

Importers of such an article ;

(ii) the Government of the exporting country ; and

(iii) a producer of the like article in India or a trade and business association a majority of the members of which produce the like article in India ;

(d) "like article" means an article which is identical or alike in all respects to the article under investigation for being dumped in India or in the absence of such an article, another article which although not alike in all respects, has characteristics closely resembling those of the articles under investigation ;

(e) "provisional duty" means an anti-dumping duty imposed under sub-section (2) of section 9A of the Act ;

(f) "specified country" means a country or territory which is a member of the World Trade Organisation and includes the country or territory with which the Government of India has an agreement for giving the most favoured nation treatment ;

(g) all words and expressions used and not defined in these rules shall have the meanings respectively assigned to them in the Act.

3. **Appointment of designated authority.**—(1) The Central Government may, by notification in the Official Gazette, appoint a person not below the rank of a Joint Secretary to the Government of India or such other person as the Government may think fit as the designated authority for purposes of these rules.

(2) The Central Government may provide to the designated authority the services of such other persons and such other facilities as it deems fit.

4. **Duties of the designated authority.**—It shall be the duty of the designated authority in accordance with these rules—

(a) to investigate as to the existence, degree and effect of any alleged dumping in relation to import of any article ;

(b) to identify the article liable for anti-dumping duty ;

(c) to submit its findings, provisional or otherwise to Central Government as to—

(i) normal value, export price and the margin of dumping in relation to the article under investigation ; and

(ii) the injury or threat of injury to an industry established in India or material retardation to the establishment of an industry in India consequent upon the import of such article from the specified countries.

(d) to recommend the amount of anti-dumping duty, which if levied would be adequate to remove the injury to the domestic industry and the date of commencement of such duty ; and

(e) to review the need for continuance of anti-dumping duty.

5. **Initiation of investigation.**—(1) Except as provided in sub-rule (4), the designated authority shall initiate an investigation to determine the existence, degree and effect of any alleged dumping only upon receipt of a written application by or on behalf of the domestic industry.

(2) An application under sub-rule (1) shall be in the form as may be specified by the designated authority and the application shall be supported by evidence of—

(a) dumping,

(b) injury, where applicable, and

(c) where applicable, a casual link between such dumped imports and alleged injury.

(3) The designated authority shall not initiate an investigation pursuant to an application made under sub-rule (1) unless—

(a) it determines, on the basis of an examination of the degree of support for, or opposition to the application expressed by domestic producers of the like product, that the application has been made by or on behalf of the domestic industry :

Provided that no investigation shall be initiated if domestic producers expressly supporting the application account for less than twenty-five per cent. of the total production of the like article by the domestic industry, and

(b) it examines the accuracy and adequacy of the evidence provided in the application and satisfied itself that there is sufficient evidence regarding—

(i) dumping,

(ii) injury, where applicable, and

(iii) where applicable, a casual link between such dumped imports and the alleged injury,

to justify the initiation of an investigation.

Explanation.—For the purpose of this rule the application shall be deemed to have been made by or on behalf of the domestic industry, if it is supported by those domestic producers whose collective output constitute more than fifty per cent. of the total production of the like article produced by that portion of the domestic industry expressing either support for or opposition, as the case may be, to the application.

(4) Notwithstanding anything contained in sub-rule (1), the designated authority may initiate an investigation suo motu if it is satisfied from the information received from the Collector of Customs appointed under the Customs Act, 1962 (52 of 1962), or from any other source that sufficient evidence exists as to the existence of the circumstances referred to in clause (b) of sub-rule (3).

(5) The designated authority shall notify the Government of the exporting country before proceeding to initiate an investigation.

6. **Principles governing investigations.**—(1) The designated authority shall, after it has decided to initiate investigation to determine the existence, degree and effect of any alleged dumping of any article, issue a public notice notifying its decision and such public notice shall, inter alia, contain adequate information on the following :—

(i) the name of the exporting country or countries and the article involved ;

(ii) the date of initiation of the investigation ;

(iii) the basis on which dumping is alleged in the application ;

(iv) a summary of the factors on which the allegation of injury is based ;

(v) the address to which representations by interested parties should be directed ; and

(vi) the time-limits allowed to interested parties for making their views known.

(2) A copy of the public notice shall be forwarded by the designated

authority to the known exporters of the article alleged to have been dumped, the Governments of the exporting countries concerned and other interested parties

(3) The designated authority shall also provide a copy of the application referred to in sub-rule (1) of rule 5 to —

(i) the known exporters or to be concerned trade association where the number of exporters is large, and

(ii) the Governments of the exporting countries :

Provided that the designated authority shall also make available a copy of the application to any other interested party who makes a request therefor in writing.

(4) The designated authority may issue a notice calling for any information, in such form as may be specified by it, from the exporters, foreign producers and other interested parties and such information shall be furnished by such persons in writing within thirty days from the date of receipt of the notice or within such extended period as the designated authority may allow on sufficient cause being shown.

Explanation.—For the purpose of this sub-rule, the notice calling for information and other documents shall be deemed to have been received one week from the date on which it was sent by the designated authority or transmitted to the appropriate diplomatic representative of the exporting country.

(5) The designated authority shall also provide opportunity to the industrial users of the article under investigation, and to representative consumer organisations in cases where the article is commonly sold at the retail level, to furnish information which is relevant to the investigation regarding dumping injury where applicable, and causality.

(6) The designated authority may allow an interested party or its representative to present the information relevant to the investigation orally but such oral information shall be taken into consideration by the designated authority only when it is subsequently reproduced in writing.

(7) The designated authority shall make available the evidence presented to it by one interested party to the other interested parties, participation in the investigation.

(8) In a case where an interested party refuses access to, or otherwise does not provide necessary information within a reasonable period, or significantly impedes the investigation, the designated authority may record its findings on the basis of the facts available to it and make such recommendations to the Central Government as it deems fit under such circumstances.

7. **Confidential information.**—(1) Notwithstanding anything contained in sub-rules (2) (3) and (7) of rule 6, sub-rule (2) of rule 12, sub-rule (4) of rule 15 and sub-rule (4) of rule 17, the copies of applications received under sub-rule (1) of rule 5, or any other information provided to the designated authority on a confidential basis by any party in the course of investigation, shall, upon the designated authority being satisfied as to its confidentiality, be treated as such by it and no such information shall be disclosed to any other party without specific authorisation of the party providing such information.

(2) The designated authority may require the parties providing infor-

mation on confidential basis to furnish non-confidential summary thereof and if, in the opinion of a party providing such information, such information is not susceptible of summary, such party may submit to the designated authority a statement of reasons why summarisation is not posible.

(3) Notwithstanding anything contained in sub-rule (2), if the designated authority is satisfied that the request for confidentiality is not warranted as the supplier of the information is either unwilling to make the information public or to authorise its disclosure in a generalised or summary form, it may disregard such information.

8. **Accuracy of the information.**—Except in cases referred to in sub-rule (8) of rule 9, the designated authority shall, during the course of investigation, satisfy itself as to the accuracy of the information supplied by the interested parties upon which its findings are based.

9. **Investigation in the territory of other specified countries.**—The designated authority may carry out investigation in the territories of other countries, if the circumstances of a case so warrant :

Provided that the designated authority obtains the consent of the person concerned and notifies the representatives of the concerned Government and the concerned Government does not object to such investigation;

10. **Detention of normal value, export price and margin of dumping.**—An article shall be considered as being dumped if it is exported from a country or territory to India at a price less than its normal value and in such circumstances the designated authority shall determine the normal value, export prices and the margin of dumping taking into account, inter alia, the principles laid down in annexure I to these rules.

11. **Determination of injury.**—(1) In the case of imports from specified countries, the designated authority shall record a further finding that import of such article into India causes or threatens material injury to any established industry in India or materially regards the establishment of any industry in India.

(2) The designated authority shall determine the injury to domestic industry, threat of injury to domestic industry, material retardation to establishment of domestic industry and a casual link between dumped imports and injury, taking into account all relevant facts, including the volume of dumped imports, their effect on price in the domestic market for like articles and the consequent effect of such imports on domestic producers of such articles and in accordance with the principles set out in annexure II to these rules.

(3) The designated authority may, in exceptional cases, give a finding as to the existence of injury even where a substantial portion of the domestic industry is not injured, if—

(i) there is a concentration of dumped imports into an isolated market, and

(ii) the dumped articles are causing injury to the producers of all or almost all of the production within such market.

12. **Preliminary findings.**—(1) The designated authority shall proceed expeditiously with the conduct of the investigation and shall, in appropriate cases, record a preliminary finding regarding export price, normal value and margin of dumping, and in respect of imports from specified countries, it

shall also record a further finding regarding injury to the domestic industry and such finding shall contain sufficiently detailed information for the preliminary determinations on dumping and injury and shall refer to the matters of fact and law which have led to arguments being accepted or rejected. It will also contain—

(i) the names of the suppliers, or when this is impracticable, the supplying countries involved ;

(ii) a description of the article which is sufficient for customs purposes ;

(iii) the margins of dumping established and a full explanation of the reasons for the methodology used in the establishment and comparison of the export price and the normal value ;

(iv) considerations relevant to the injury determination ; and

(v) the main reasons leading to the determination.

(2) The designated authority shall issue a public notice recording its preliminary findings.

13. **Levy of provisional duty.**—The Central Government may, on the basis of the preliminary findings recorded by the designated authority, impose a provisional duty not exceeding the margin of dumping ;

Provided that no such duty shall be imposed before the expiry of sixty days from the date of the public notice issued by the designated authority regarding its decision to initiate investigations ;

Provided further that such duty shall remain in force duly for a period not exceeding six months which may upon request of the exporters representing a significant percentage of the trade involved be extended by the Central Government to nine months.

14. **Termination of investigation.**—The designated authority shall, by issue of a public notice, terminate an investigation immediately if -

(a) it receives a request in writing for doing so from or on behalf of the domestic industry affected, at whose instance the investigation was initiated ;

(b) it is satisfied in the course of an investigation, that there is not sufficient evidence of dumping or, where applicable, injury to justify the continuation of the investigation ;

(c) it determines that the margin of dumping is less than two per cent. of the export price ;

(d) it determines that the volume of the dumped imports, actual or potential, from a particular country accounts for less than three per cent. of the imports of the like product, unless, the countries which individually account for less than three per cent. of the imports of the like product, collectively account for more than seven per cent. of the import of the like product ; or

(e) it determines that the injury where applicable, is negligible.

15. **Suspension or termination of investigation on price undertaking.**—(1) The designated authority may suspend or terminate an investigation if the exporter of the article in question,—

(i) furnishes an undertaking in writing to the designated authority to revise the prices so that no exports of the said articles are made to India at dumped prices ; or

(ii) in the case of imports from specified countries undertake to revise

the prices so that injurious effect of dumping is eliminated and the designated authority is satisfied that the injurious effect of the dumping is eliminated:

Provided further that the designated authority shall complete the investigation and record its finding, if the exporter so desires, or it so decides.

(2) No undertaking as regards price increase under clause (ii) of the sub-rule (1) shall be accepted from any exporter unless the designated authority has made preliminary determination of dumping and the injury.

(3) The designated authority may also not accept undertakings offered by any exporter, if it considers that acceptance of such undertaking is impractical or is unacceptable for any other reason.

(4) The designated authority shall intimate the acceptance of an undertaking and suspension or termination of investigation to the Central Government and also issue a public notice in this regard. The public notice shall, contain, inter alia, the non-confidential part of the undertaking.

(5) In cases where an undertaking has been accepted by the designated authority the Central Government may not impose a duty under sub-section (2) of section 9A of the Act for such period the undertaking acceptable to the designated authority remains valid.

(6) Where the designated authority has accepted any undertaking under sub-rule (1), it may require the exporter from whom such undertaking has been accepted to provide from time to time information relevant to the fulfilment of the undertaking and to permit verification of relevant data :

Provided that in the case of any violation of an undertaking, the designated authority shall intimate to the Central Government regarding such violation and complete the investigation expeditiously.

(7) The designated authority shall, suo motu or on the basis of any request received from exporters or importers of the article in question or any other interested party, review from time to time the need for the continuation of any undertaking given earlier.

16. **Disclosure of information**.—The designated authority shall, before giving its final findings, inform all interested parties of the essential facts under consideration which form the basis for its decision.

17. **Final findings**.—(1) The designated authority shall, within one year from the date of initiation of an investigation, determine as to whether or not the article under investigation is being dumped in India and submit to the Central Government its final finding—

(a) as to,—

(i) the export price, normal value and the margin of dumping of the said article ;

(ii) whether import of the said article into India, in the case of imports from specified countries, causes or threatens material injury to any industry established in India, or materially retards the establishment of any industry in India ;

(iii) a casual link, where applicable, between the dumped imports and injury ;

(iv) whether a retrospective levy is called for and if so, the reason therefor and date of commencement of such retrospective levy :

Provided that the Central Government may, in circumstances of excep-

tional nature, extend further the aforesaid period of one year by six months ;

Provided further that in those cases where the designated authority has suspended the investigation on the acceptance of a price undertaking as provided in rule 15 and subsequently resumes the same on violation of the terms of the said undertaking, the period for which investigation was kept under suspension shall not be taken into account while calculating the period of said one year.

(b) recommending the amount of duty which, if levied, would be adequate to remove the injury where applicable, to the domestic industry

(2) The final finding if affirmative, shall contain all information on the matter of facts and law and reasons which have led to the conclusion and shall also contain information regarding –

(i) the names of the suppliers, or when this is impracticable, the supplying countries involved ;

(ii) a description of the product which is sufficient for customs purposes ;

(iii) the margins of dumping established and a full explanation of the reasons for the methodology used in the establishment and comparison of the export price and the normal value ;

(iv) considerations relevant to the injury determination ; and

(v) the main reasons leading to the determination.

(3) The designated authority shall determine an individual margin of dumping for each known exporter or producer concerned of the article under investigation :

Provided that in cases where the number of exporters, producers, importers or types of articles involved are so large as to make such determination impracticable, it may limit its findings either to a reasonable number of interested parties or articles by using statistically valid samples based on information available at the time of selection, or to the largest percentage of the value of the exports from the country in question which can reasonably be investigated, and any selection of exporters producers or type of articles, made under this proviso shall preferably be made in consultation with and with the consent of the exporters, producers or importers concerned ;

Provided further that the designated authority shall, determine an individual margin of dumping for any exporter or producer, though not selected initially, who submit necessary information in time, except where the number of exporters or producers are so large that individual examination would be unduly burdensome and prevent the timely completion of the investigation.

(4) The designated authority shall issue a public notice recording its final findings.

18. **Levy of duty.**– (1) The Central Government may, within three months of the date of publication of final findings by the designated authority under rule 17 impose by notification in the Official Gazette, upon importation into india of the article covered by the final finding, anti-dumping duty not exceeding the margin of dumping as determined under rule 17 :

Provided that in case of imports from the specified countries the amount of duty shall not exceed the amount which has been found adequate to

remove the injury to domestic industry.

(2) In case where the designated authority has selected percentage of the volume of the exports from a particular country, as referred to in sub-rule (3) of rule 17, any dumping duty applied to imports from exporters or producers not included in the examination shall not exceed—

(i) the weighted average margin of dumping established with respect to the selected exporters or producers, or

(ii) where the liability for payment of anti-dumping duties is calculated on the basis of a prospective normal value, the difference between the weighted average normal value of the selected exporters or producers and the export prices of exporters or producers, not individually examined ;

Provided that the Central Government shall disregard for the purpose of this sub-rule any zero margin, margins which are less than 2 per cent. expressed as the percentage of export price and margin established in the circumstances detailed in sub-rule (8) of rule 6. The Central Government shall apply individual duties to imports from any exporter or producer not in the examination who has provided the necessary information during the course of the investigation as referred to in the second proviso to sub-rule (3) of rule 17.

(3) Notwithstanding anything contained in sub-rule (1), where a domestic industry has been interpreted according to the proviso to sub-clause (b) of rule 2, a duty shall be levied only after the exporters have been given opportunity to cease exporting at dumped prices to the area concerned or otherwise give an undertaking pursuant to rule 15 and such understanding has not been promptly given and in such cases duty shall not be levied only on the articles of specific producers which supply the area in question.

(4) If the final finding of the designated authority is negative that is contrary to the evidence on whose basis the investigation was initiated, the Central Government shall, within forty-five days of the publication of final findings by the designated authority under rule 17, withdraw the provisional duty imposed, if any.

19. **Imposition of duty on non-discriminatory basis.**—Any provisional duty imposed under rule 13 or on an anti-dumping duty imposed under rule 18 shall be on a non-discriminatory basis and applicable to all imports of such articles from whatever sources found dumped and, where applicable, causing injury to domestic industry except in the case of imports from those sources from which undertaking in terms of rule 15 has been accepted.

20 **Commencement of duty.** -(1) The anti-dumping duty levied under rule 13 and rule 19 shall take effect from the date of its publication in the Official Gazette.

(9) Notwithstanding anything contained in sub-rule (1) :—

(a) where a provisional duty has been levied and where the designated authority has recorded a final finding of injury or where the designated authority has recorded a final finding of threat of injury and a further finding that the effect of dumped imports in the absence of provisional duty would have led to injury, the anti-dumping duty may be levied from the date of imposition of provisional duty ;

(b) in the circumstances referred to in sub-section (3) of section 9A of the Act, the anti-dumping duty may be levied retrospectively from the date commencing ninety days prior to the imposition of such provisional

duty :

Provided that no duty shall be levied retrospectively on imports entered for home consumption before initiation of the investigation :

Provided further that in the cases of violation of price undertaking referred to in sub-rule (6) of rule 16, no duty shall be levied retrospectively on the imports which have entered for home consumption before the violation of the terms of such undertaking.

21. **Refund of duty.**—(1) If the anti-dumping duty imposed by the Central Government on the basis of the final findings of the investigation conducted by the designated authority is higher than the provisional duty already imposed and collected, the differential shall not be collected from the importer.

(2) If, the anti-dumping duty fixed after the conclusion of the investigation is lower than the provisional duty already imposed and collected, the differential shall be refunded to the importer.

(3) If the provisional duty imposed by the Central Government is withdrawn in accordance with the provisions of sub-rule (4) of rule 18, the provisional duty already imposed and collected, if any, shall be refunded to the importer.

22. **Margin of dumping, for exporters not originally investigated.**—(1) If a product is subject to anti-dumping duties, the designated authority shall carry out a periodical review for the purpose of determining individual margins of dumping for any exporters or producers in the exporting country in question who have not exported the product of India during the period of investigation, provided that these exporters or producers show that they are not related to any of the exporters or producers in the exporting country who are subject to the anti-dumping duties on the product.

(2) The Central Government shall not levy anti-dumping duties under sub section (1) of section 9A of the Act on imports from such exporters or producers during the period of review as referred to in sub-rule (1) of this rule :

Provided that the Central Government may resort to provisional assessment and may ask a guarantee from the importer if the designated authority so recommends and if such a review results in a determination of dumping in respect of such products or exporters, it may levy duty in such cases retrospectively from the date of the initiation of the review.

23. **Review.**—(1) The designated authority shall, from time to time, review the need for the continued imposition of the anti-dumping duty and shall, if it is satisfied on the basis of information received by it that there is no justification for the continued imposition of such duty, recommend to the Central Government for its withdrawal.

(2) Any review initiated under sub-rule (1) shall be concluded within a period not exceeding twelve months from the date of initiation of such review.

(3) The provisions of rules 6, 7, 8, 9, 10, 11, 16, 17, 18, 19 and 20 shall be mutatis mutandis applicable in the case of review.

24. **Dumping causing injury to a third country.**—(1) The designated authority may initiate investigation into any dumping alleged to be taking place into india and causing injury to the domestic industry of any third country which is a member of the World Trade Organisation.

(2) The designated authority in such cases shall follow the procedures laid down in article 14 of the Agreement on Implementation of Article VI of the General Agreement on Tariff and Trade, 1994, as contained in the Final Act of Aruguay Round Multilateral Trade Negotiations.

ANNEXURE I

(See rule 16)

Principles governing the determination of normal value, export price and margin of dumping

The designated authority while determining the normal value, export price and margin of dumping shall take into account, inter alia, the following principles :—

1. The elements of costs referred to in the context of determination of normal value shall normally be determined on the basis of records kept by the exporter or producer under investigation, provided such records are in accordance with the generally accepted accounting principles of the exporting country, and such records, reasonably reflect the cost associated with production and sale of the article under consideration

2. Sales of the like product in the domestic market of the exporting country or sales to a third country at prices below per unit (fixed and variable) costs of production plus administrative, selling and general costs may be treated as not being in the ordinary course of trade by reason of price. The designated authority may disregard these sales, in determining normal value, provided it has determined that :—

(i) such sales are made within a reasonable period of time (not less than six months) in substantial quantities, i.e., when the weighted average selling price of the article is below the weighted average per unit costs or when the volume of the sales below per unit costs represents not less than twenty per cent. of the volume sold in transactions under consideration, and

(ii) such sales are at prices which do not provide for the recovery of all costs within a reasonable period of time. The said prices will be considered to provide for recovery of costs within a reasonable period of time if they are above weighted average per unit costs for the period of investigation, even though they might have been below per unit costs at the time of sale.

3. (i) The authority in the course of investigation shall consider all available evidence on the proper allocation of costs, including that which is made available by the exporter or producer provided that such allocation has been historically utilised by the exporter or producer, in relation to establishing appropriate amortization and depreciation periods and allowances for capital expenditure and other development costs.

(ii) unless already reflected in allocation of costs referred to in clause (i) and sub-clause (i) above, the designated authority, will also make appropriate adjustments for these non-recurring items of cost which benefit further and/or current production, or for circumstances in which costs during the period of investigation are affected by start up operations.

4. The amounts for administrative, selling and general costs and for profits as referred to in sub-section (1) of section 9A of the Act, shall be based on actual data pertaining to production and sales in the ordinary course of trade, of the like article by the exporter or producer under

investigation. When such amounts cannot be determined on this basis, the amounts may be determined on the basis of ;—

(i) the actual amounts incurred and realized by the exporter or producer in question, in respect of production and sales in the domestic market of the country of origin of the same general category of article ;

(ii) the weighted average of the actual amounts incurred and realized by other exporters or producers subject to investigation in respect of production and sales of the like article in the domestic market of the country of origin ; or

(iii) any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realized by the exporters or producers on sales of products of the same general category in the domestic market of the country of origin.

5. The designated authority, while arriving at a constructed export price, shall give due allowance for costs including duties and taxes, incurred between importation and resale and for profits.

6. (i) While arriving at margin of dumping, the designated authority shall make a fair comparison between the export price and the normal value. The comparison shall be made at the same level of trade normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are demonstrated to affect price comparability.

(ii) In the cases where export price is a constructed price, the comparison shall be made only after establishing the normal value at equivalent level of trade.

(iii) When the comparison under this para requires a conversion of currencies, such conversion should be made by using the rate of exchange on the date of sale, provided that when a sale or foreign currency on forward markets is directly linked to the export sale involved the rate of exchange in the forward sale shall be used. Fluctuations in exchange rates shall be ignored and in an investigation the exporters shall be given at least sixty days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation.

(iv) Subject to the provisions governing comparison in this paragraph, the existence of margin of dumping during the investigation phase shall normally be established on the basis of a comparison of a weighted average normal value and export prices on a transaction-to-transaction basis. A normal value established on a weighted average basis may be compared to prices of individual export transactions if it is found that a pattern of export prices which differ significantly among different purchasers regions or time periods, and if an explanation is provided as to why such differences cannot be taken into account appropriately by the use of a weighted average-to-weighted average or transaction-to-transaction comparison.

ANNEXURE II

[See rule 9(2)]

Principles for determination of injury

The designated authority while determining the injury or threat of

material injury to domestic industry or material retardation of the establishment of such an industry, hereinafter referred to as "injury" and casual link between dumped imports and such injury, shall inter alia, take the following principles under consideration :—

(i) A determination of injury shall involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like article and (b) the consequent impact of these imports on domestic producers of such products.

(ii) While examining the volume of dumped imports, the said authority shall consider whether there has been a significant increase in the dumped imports, either in absolute terms or relative to production or consumption in India. With regard to the effect of the dumped imports on prices as referred to in sub-rule (2) of rule 18 the designated authority shall consider whether there has been a significant price undercutting by the dumped import as compared with the price of like product in India, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increase which otherwise would have occurred, to a significant degree.

(iii) In cases where imports of a product from more than one country are being simultaneously subjected to anti-dumping investigation the designated authority will sum ulatively assess the effect of such imports only when it determines that (a) the margin of dumping established in relation to the imports from each country is more than two per cent. expressed as percentage of export price and the volume of the imports from each country is three per cent. of the import of like article or where the export of individual countries less than three per cent. of the imports collectively accounts for more than seven per cent. of the import of like article and (b) cumulative assessment of the effect of imports is appropriate in the light of the conditions of competition between the imported article and the like domestic articles.

(iv) The examination of the impact of the dumped imports on the domestic industry concerned, shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry including natural and potential decline in sales, profits, output, market share productivity, return on investments or utilisation of capacity ; factors affecting domestic prices ; the magnitude of the margin of dumping ; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital investments.

(v) It must be demonstrated that the dumped imports are, through the effects of dumping as set forth in paragraphs (ii) and (iv) above, causing injury to the domestic industry. The demonstration of a casual relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of relevant evidence before the designated authority. The designated authority shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry and the injury caused by these other factors must not be attributed to the dumped imports. Factors which may be relevant in this respect include, inter alia, the volume and prices of imports not sold at dumping prices, contraction in demand or changes in the patterns of consumption, trade

Published in the Gazette of India, Extra., Part II, Section 1, dated 6th November, 1994.

THE SPECIAL PROTECTION GROUP (AMENDMENT) ORDINANCE, 1994

PRESIDENT ORDINANCE NO. 12 OF 1994

Promulgated by the President in the Forty-fifth Year of the Republic of India.

An Ordinance further to amend the Special Protection Group Act, 1988

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Special Protection Group (Amendment) Ordinance, 1994.

(2) It shall come into force at once.

2. **Amendment of Section 4 of Act, 34 of 1988.**—In sub-section (1) of Section 4 of the Special Protection Group Act, 1988, in clause (ii), for the words "five years", the words "ten years" shall be substituted.

Published in the Gazette of India (Extraordinary), Part II, Section 1, dated the 31st December, 1994.

THE PATENTS (AMENDMENT) ORDINANCE, 1994

PRESIDENT ORDINANCE NO 13 OF 1994

Promulgated by the President in the Forty-Fifth Year of the Republic of India.

An Ordinance further to amend the Patent Act, 1970,

Whereas India is a signatory to the agreement for the establishment of the World Trade Organisation including the Agreement on Trade Related Aspects of Intellectual Property Rights for the purpose of reduction of distortions to international trade and promotion of effective and adequate protection of intellectual property rights.

And whereas with a view to meeting India's obligations under the said Agreement while safeguarding its interests, it has become necessary to amend the Patents Act, 1970 in conformity with the obligations under the Agreement that signatory countries, in formulating or amend their laws and regulations, may adopt measures consistent with the said agreement, necessary to protect public health and nutrition and to promote public interest in sectors of vital importance to their socio-economic and technological development ;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Patents (Amendment) Ordinance, 1994.

(2) It shall come into force on the 1st day of January, 1995.

2. **Amendment of section 5.**—Section 5 of the Patents Act, 1970 (39 of 1970) (hereinafter referred to as the Principal Act) shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so-renumbered, the following sub-section shall be inserted, namely :—

"(2) Notwithstanding anything contained in sub-section (1), a claim for patent of an invention for a substance itself intended for use, or capable of being used, as medicine or drug may be made and shall be dealt, without prejudice to the other provisions of this Act, in the manner provided in Chapter IVA ".

3. **Insertion of new Chapter IVA.**—After Chapter IV of the principal Act, the following Chapter shall be inserted, namely :—

"CHAPTER IVA

Exclusive Marketing Rights

24A. Application for grant of exclusive rights.—(1) Notwithstanding anything contained in sub-section (1) of section 11, the Controller shall not, under that sub-section, refer an application in respect of a claim for a patent covered under sub-section (2) of Section 5 to an examiner for making a report till the 31st day of December, 2004 and shall, where an application for grant of exclusive right to sell or distribute the article or substance in India has been made in the prescribed form and manner and on payment of prescribed fee, refer the application for patent, to an examiner for making a report to him as to whether the invention is not an invention within the meaning of this Act in terms of section 3 or the invention is an invention for which no patent can be granted in terms of section 4.

(2) Where the Controller, on receipt of a report under sub-section (1) and after such other investigation as he may deem necessary, is satisfied that the invention is not an invention within the meaning of this Act in terms of section 3 or the invention is an invention for which no patent can be granted in terms of section 4, he shall reject the application for exclusive right to sell or distribute the article or substance.

(3) In a case where an application for exclusive right to sell or distribute an article or a substance is not rejected by the Controller on receipt of a report under sub-section (1) and after such other investigation, if any, made by him, he may proceed to grant exclusive right to sell or distribute the article or substance in the manner provided in section 94B.

24B. Grant of exclusive rights.—(1) Where a claim for patent covered under sub-section (2) of section 5 has been made and the applicant has,—

(a) where an invention has been made in a country other than India and before filing such a claim, filed an application for the same invention claiming identical article or substance in a convention country on or after the 1st day of January, 1995 and the patent on the basis of appropriate tests conducted in that country has been granted on or after the date of making a claim for patent covered under sub-section (2) of section 5 ; or

(b) where an invention has been made in India and before filing such a claim, made a claim for patent on or after the 1st day of January, 1995 for method or process of manufacture that invention relating to identical article or substance and has been granted the patent therefor on or after the date of making a claim for patent covered under sub-section (2) of section 5.

and has received the approval to sell or distribute the article or substance

from the authority specified in this behalf by the Central Government, then, he shall have the exclusive right by himself, his agents or licensees to sell or distribute in India the article or the substance on and from the date of approval granted by the Controller in this behalf till a period of five years or till the date of patent or the date of rejection of application for the grant of patent, whichever is earlier.

(3) Where, the specifications of an invention relatable to an article or a substance covered under sub-section (2) of section 5 have been recorded in a document or the invention has been tried or used, or, the article or the substance has been sold, by a person, before a claim for a patent of that invention is made in India or in a convention country, then, the sale or distribution of the article or substance by such person, after the claim referred to above is made, shall not be deemed to be an infrigement of exclusive right to sell or distribute under sub-section (1) ;

Provided that nothing in this sub-section shall apply in a case where a person makes or uses an article or a substance with a view to selling or distributing the same, the details of invention relatable thereto were given by a person who was holding an exclusive right to sell or distribute the article or substance.

24C. Compulsory licences.—The provisions in relation to compulsory licences in Chapter XVI shall, subject to the necessary modifications, apply in relation to an exclusive right to sell or distribute under section 24B as they apply to, and in relation to, a right under a patent to sell or distribute and for that purpose the following modifications shall be deemed to have been made to the provisions of that Chapter and all their grammatical variations and cognate expressions shall be construed accordingly, namely :—

(a) throughout Chapter XVI, working of the invention shall be deemed to be selling or distributing the article or substance ;

(b) three years from the date of sealing of a patent in section 84 shall be deemed to be two years from the date of approval by the Controller for exclusive right to sell or distribute under section 24B ;

(c) the time which has elapsed since the sealing of the patent under section 85 shall be deemed to be the time which has elapsed since the approval by the Controller for exclusive right to sell or distribute under section 24B ;

(d) clause (d) and clause (e) of section 90 shall be omitted.

24D. Special provision for selling or distribution.—(1) Without prejudice to the provisions of any other law for the time being in force, where, at any time after an exclusive right to sell or distribute any article or substance has been granted under sub-section (1) of section 24B, the Central Government is satisfied that it is necessary or expedient in the public interest to sell or distribute the article or substance by a person other than a person to whom exclusive right has been granted under sub-section (1) of section 24B, it may, by itself or through any person authorised in writing by it in this behalf, sell or distribute the article or substance.

(2) The Central Government may, by notification in the Official Gazette and at any time after an exclusive right to sell or distribute an article or a substance has been granted, direct, in the public interest and for reasons to be stated, that the said article or substance shall be sold at a price determined by an authority specified by it in this behalf.

24E. **Suits relating to infringements.**—All suits relating to infringement of a right under section 24B shall be dealt with in the same manner as if they are suits concerning infringement of patents under Chapter XVIII.

24E. **Central Government and its officers not to be liable.**—The examination and investigations required under this chapter shall not be deemed in any way to warrant the validity of any grant of exclusive right to sell or distribute, and no liability shall be incurred by the Central Government or any officer thereof by reason of, or in connection with, any such examination or investigation or any report or other proceedings consequent thereon.".

4 **Omission of section 39.**—Section 39 of the Principal Act shall be omitted.

5. **Amendment of section 40.**—In section 40 of the principal Act, the words and figures "or makes or causes to be made an application for the grant of a patent outside India in contravention of section 39" shall be omitted.

6. **Amendment of section 64.**—In section 64 of the principal Act, in the sub-section (1), in clause (n), the words and figures "or made or caused to be made an application for the grant of a patent outside India in contravention of section 39" shall be omitted.

7. **Amendment of section 118.**—In section 118 of the principal Act, the words and figures "or makes or causes to be made an application for the grant of a patent in contravention of section 39" shall be omitted.

SHANKER DAYAL SHARMA,
President.

Published in the Gazette of India, (Extraordinary), Part II, Section 1, dated the 31st December, 1994.

THE CUSTOMS TARIFF (AMENDMENT) ORDINANCE, 1994

PRESIDENT ORDINANCE NO. 14 OF 1994

Promulgated by the President in the Forty-Fifth Year of the Republic of India.

An ordinance further to amend the Customs Tariff Act, 1975.

Whereas, Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Customs Tariff (Amendment) Ordinance, 1994.

(2) It shall come into force on the 1st day of January, 1995.

2. **Substitution of new sections for sections 9, 9A and 9B.**—For section 9, 9A and 9B of the Customs Tariff Act, 1975 (51 of 1975) the following sections shall be substituted, namely :—

"9. **Countervailing duty on subsidized articles.**—(1) Where any country or territory pays, bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any article including any subsidy on transportation of such article, then, upon the importation of any such article into India, whether the same is imported

directly from the country of manufacture, production or otherwise, and whether it is imported in the same condition as when exported from the country of manufacture or production or has been changed in condition by manufacture, production or otherwise, the Central Government may, by notification in the Official Gazette, impose a countervailing duty not exceeding the amount of such subsidy.

Explanation.—For the purposes of this section, a subsidy shall be deemed to exist if—

(a) there is financial contribution by a government, or any public body within the territory of the exporting or producing country, that is, where—

(i) a government practice involves a direct transfer of funds (including grants, loans and equity infusion), or potential direct transfer of funds or liabilities, or both ;

(ii) government revenue that is otherwise due is foregone or not collected (including fiscal incentives) ;

(iii) a government provides goods or services other than general infrastructure or purchases goods ;

(iv) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in clauses (i) to (ii) above which would normally be vested in the government and the practice in, no real sense, differs from practices normally followed by government ; or

(b) a government grants or maintains any form of income or price support, which operates directly or indirectly to increase export of any article from, or to reduce import of any article into its territory.

and a benefit is thereby conferred.

(2) The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the amount of subsidy, impose a countervailing duty under this sub-section not exceeding the amount of such subsidy as provisionally estimated by it and if such countervailing duty exceeds the subsidy as so determined,—

(a) the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such countervailing duty ; and

(b) refund shall be made of so much of such countervailing duty which has been collected as is in excess of the countervailing duty as so reduced.

(3) Subject to any rules made by the Central Government, by notification in the Official Gazette, the countervailing duty under sub-section (1) or sub-section (2) shall not be levied unless it is determined that—

(a) the subsidy relates to export performance ;

(b) the subsidy relates to the use of domestic goods over imported goods in the export article ; or

(c) the subsidy has been conferred on a limited number of persons engaged in manufacturing, producing or exporting the article unless such a subsidy is for—

(i) research activities conducted by or on behalf of persons engaged in the manufacture, production or export ;

(ii) assistance to disadvantaged regions within the territory of the exporting country ; or

(iii) assistance to promote adaptation of existing facilities to new environmental requirements.

(4) If the Central Government, is of the opinion that the injury to the domestic industry which is difficult to repair, is caused by massive imports in a relatively short period, of the article benefiting from subsidies paid or bestowed and where in order to preclude the recurrence of such injury, it is necessary to levy countervailing duty retrospectively, the Central Government may, by notification in the Official Gazette, levy countervailing duty from a date prior to the date of imposition of countervailing duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section and notwithstanding anything contained in any law for the time being in force, such duty shall be payable from the date as specified in the notification issued under this sub-section.

(5) The countervailing duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

(6) The countervailing duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition :

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such imposition for a further period of five years and shall commence from the date of order of such extension :

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

(7) The amount of any such subsidy as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may, by notification in the Official Gazette, make rules for the identification of such article and for the assessment and collection of any countervailing duty imposed upon the importation thereof under this section.

(8) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament

9A. **Anti-dumping duty on dumped articles.**—(1) Where any article is exported from any country or territory (hereinafter in this section referred to as the exporting country or territory) to India at less than its normal value, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an anti-dumping duty not exceeding the margin of dumping in relation to such article.

Explanation.—For the purpose of this section,—

(a) "margin of dumping", in relation to an article, means the difference between its export price and its normal value ;

(b) "export price", in relation to an article, means the price of the article exported from the exporting country or territory and in cases where there is no export price or where the export price is unreliable because of

association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6);

(c) "Normal value", in relation to an article, means —

(i) the comparable price, in the ordinary course of trade, for the like article when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or

(b) refund shall be made of so much of the anti-dumping duty which has been collected as is in excess of the anti-dumping duty as so reduced.

(3) If the Central Government, in respect of the dumped article under inquiry, is of the opinion that—

(i) there is a history of dumping which caused injury or that the importer was or should have been, aware that the exporter practices dumping and that such dumping would cause injury; and

(ii) the injury is caused by massive dumping of an article imported in a relatively short time which in the light of the timing and the volume of imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied,

the Central Government may, be notification in the Official Gazette, levy anti-dumping duty retrospectively from a date prior to the date of imposition of anti-dumping duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section, and notwithstanding anything contained in any law for the time being in force, such duty shall be payable at such rate and from such date as may be specified in the notification.

(4) The anti-dumping duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

(5) The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition;

Provided that if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension;

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding one year.

(6) The margin of dumping as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which articles liable for any anti-dumping duty under this section may be identified, and for the

manner in which the export price and the normal value of, and the margin of dumping in relation to, such articles may be determined and for the assessment and the collection of such anti-dumping duty.

(7) Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament.

9B. No levy under section 9 or section 9A in certain cases.—(1) Notwithstanding anything contained in section 9 or section 9B,—

(a) no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization ;

(b) the Central Government shall not levy any countervailing duty or anti-dumping duty—

(i) under section 9 or section 9A by reasons of exemption of such articles from duties or taxes borne by the like article when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes ;

(ii) under sub-section (1) of each of these sections, on the import into India of any article from a member country of the World Trade Organisation or from a country with whom Government of India has a most favoured nation agreement (hereinafter referred as a specified country), unless in accordance with the rules made under subsection (2) of this section, a determination has been made that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India ; and

(iii) under sub-section (2) of each of these sections, on import into India of any articles from the specified countries unless in accordance with the rules made under sub-section (2) of this section, a preliminary findings has been made of subsidy or dumping and consequent injury to domestic industry ; and a further determination has also been made that a duty is necessary to prevent injury being caused during the investigation ;

Provided that nothing contained in sub-clause (ii) and (iii) of clause (b) shall apply if a countervailing duty or an anti-dumping duty has been imposed on any article to prevent injury or threat of an injury to the domestic industry of a third country exporting the like articles to India ;

(c) The Central Government may not levy—

(i) any countervailing duty under section 9, at any time, upon receipt of satisfactory voluntary undertakings from the Government of the exporting country or territory agreeing the eliminate or limit the subsidy or take other measures concerning its effect, or the exporter agreeing to revise the price of the article and if the Central Government is satisfied that the injurious effect of the subsidy is eliminated thereby ;

(ii) any anti-dumping duty under section 9A, at any time, upon receipt of satisfactory voluntary undertaking from any exporter to revise its prices or to cease exports to the area in question at dumped price and if the Central Government is satisfied that the injurious effect of dumping is eliminated by such action.

(2) The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which any investigation may be made for the purposes of this section,

4. Serial Number in the voters list and S. No. of constituency from which he/she was elected Member of Panchayat Samiti/Zila Parishad.

5. Name of the Candidate's father/husband .....

I, the above mentioned candidate, assent to this nomination and hereby declare ;—

(a) that I have been set up as a candidate at this election by ..... party.

(b) that the symbols I have chosen are ;—

(i).....(ii).....(iii).....

I further declare that ;—

(1) I am qualified to be a member of Panchayat Samiti/Member of Zilla Parishad under the provisions of the Rajasthan Panchayati Raj Act, 1994.

(2) I am not subject to any of the disqualifications specified in section 19 of the said Act.

(3) I belong/do not belong to the Scheduled Castes/Scheduled Tribes/ Other Backward Classes.

(4) That I have deposited security as required under Rule 56(3).

Date ;.....

Place ;..... Signature of the candidate.

Note ; Please strike off which is not related.

(To be filled by the Presiding Officer)

Name of Panchayat Samiti/Zila Parishad from which the candidate/ purposes to seek election.....

Serial Number of the nomination paper for such Panchayat Samiti Zila Parishad.....

This nomination was presented to me at.....(hrs.) on.....(date) by Shri/Smt./Miss..... .....(Candidate) accompanied by Shri .... as identifier.

DECISION ACCEPTING OR REJECTING THE NOMINATION PAPER

I have examined the nomination in accordance with the provisions of these rules and decide as follows ;—

Date ;..... Presiding Officer

(Receipt for nomination paper)

Name of Panchayat Samiti/Zila Parishad from which the candidate purposes to seek election.....

Serial Number of nomination paper for such Panchayat Samiti/Zila Parishad.....

The nomination paper of a candidate for election as Pradhan/Up-Pradhan/Pramukh/Up-Pramukh was delivered to me at..... (hrs.) on.....(date) by Shri..... accompanied by Shri/Smt..... as identifier.

The nomination paper will be taken for scrutiny at..... (hrs.) on.....(date) .....at..... (Place).

Date :.....
Place :..... Presiding Officer.

Note ; Please strike off which is not related.

Published in the Rajasthan Gazette, Extraordinary, Part IV (g a), dated June 1, 1994.

HOME (Gr.-1E) DEPARTMENT

G.S.R. 31.—*(Jaipur May 26, 1994).*—In exercise of the powers conferred by sub-section (3) of section 432 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the State Government hereby makes the following Rules further to amend the Rajasthan Prisoners Release on Parole Rules, 1958, namely :—

Amendment

1. (1) These Rules may be called the Rajasthan Prisoners Release on Parole (Amendment) Rules, 1994.

(2) They shall come into force with immediate effect.

2. The following proviso shall be added below the existing Rule 9 of the said Rules :—

"Provided that cases of prisoners who have been sentenced to imprisonment for life, for an offence for which death penaly is one of the punishments provided by law or who have been sentenced to death but this sentence has been commuted under section 433 of Code of Criminal Procedure into one of life imprisonment shall not be placed before the State Committee for permanent release on parole unless he has served 14 years of imprisonment excluding remission, but including the period of detention passed during enquiry, investigation or trial. Such prisoners may be released on parole for 40 days every year for the remaining period of their sentence subject to the conditions stated above."

Published in the Rajasthan Gazette, Extraordinary, Part IV(ga), dated November 25, 1994.

TRANSPORT DEPARTMENT

G.S.R. 94.—*(Jaipur, November 24, 1994).*—In exercise of the powers conferred by Section 22 of the Rajasthan Motor Vehicles Taxation Act, 1951 (Rajasthan Act No. 11 of 1951) the State Government hereby makes the following rules further to amend the Rajasthan Motor Vehicles Taxation Rules, 1951, namely :—

Amendment

1. Short title and commencement. —(i) These rules may be called the Rajasthan Motor Vehicles Taxation (Amendment) Rules, 1994.

(ii) These rules shall be deemed to have come into force with effect from 1st October, 1982.

2. The existing sub-rule (1) and sub-rule (2) of Rule 6A of the Rajasthan Motor Vehicles Taxation Rules, 1951 shall be substituted by the following namely :—

"(1) Every owner of Stage Carriages excluding the vehicles of R.S.R.T.C. and the owners of Stage Carriages plying exclusively in Municipal or City limits and liable to pay the tax under section 4-B, shall deposit with the Taxation Officer by way of Security such a amount as may

be equal to the tax payable by him under Section 4-B for one month in respect of each vehicle. The amount of security shall be subject to revision after every 3 years,

(2) The security money shall be deposited at the time of issue of the the permit. Where an owner has already deposited security under the repealed Rajasthan Passenger and Goods Taxation Act, 1959 or under Rajasthan Motor Vehicles Taxation Act, 1951, he shall deposit the balance of security, if any. Security amount shall be adjustable towards the outstanding dues against the owner. Where the owner fails to pay the tax then the security amount will be adjusted against the tax due and the owner will pay the balance of tax outstanding against him, if any. The amount of security shall be deposited in cash."

Published in the Rajasthan Gazette, Extraordinary, Part IV(ga) dated January 25, 1995.

DEPARTMENT OF RURAL DEVELOPMENT & PANCHAYATI RAJ

G.S.R. 117.—*(Jaipur, January 24, 1995).*—In exercise of the powers conferred by section 102 read with section 17(3) of the Rajasthan Panchayati Raj Act, 1994 (Rajasthan Act No. 13 of 1994) and all other powers enabling it in this behalf, the State Government hereby makes the following amendments in the Rajasthan Panchayati Raj (Election) Rules, 1994, namely ;—

Amendments

In the said rules ;—

(1) In sub-rule (4) of rule 59 the expression "Form VII" shall be substituted by the expression "Form VII-A".

(2) In sub-rule (1) of rule 59 the expression "Form V" shall be substituted by the expression "Form V-A".

(3) In sub-rule (1) of rule 60, the expression "Form VII" shall be substituted by the expression "Form VII-A".

(4) In sub-rule (3) of rule 61, the expression "Form VII" shall be substituted by the expression "Form VII-A".

(5) In rule 62 the expression "Form VII" shall be substituted by the expression "Form VII-A".

(6) After the existing Form V appended to the rules following Form V-A shall be added ;—

FORM V-A

[See rule 59 (8)]

List of validly nominated candidates whose nomination papers have been accepted and have not been withdrawn.

"ELECTION OF THE PRADHAN/UP-PRADHAN/PRAMUKH/ UP-PRAMUKH of Panchayat Samiti/Zila Parishad _____

Date of Election_____

Name of Panchayat Samiti/Zila Parishad	S. No. and name of the candidate with address	Distinctive sombol allotted.
1	2	3

*Strike out which is not applicable.
Date.....
Place.....

Officer appointed by the Collector/
Chief Executive Officer, Zila
Parishad.
.....

(7) After the existing form VII appended to the rules, following Form VII-A shall be added :—

FORM VII-A
(See rule 59, 60, 61)

Return showing the results of Election for the office of Pradhan/Up-Pradhan/Pramukh/Up-Pramukh.

*Pradhan/Up-Pradhan/Pramukh/Up-Pramukh, Panchayat Samiti/Zila Parishad.....

Total Electorate.....

1	2	3
Name of Panchayat Samiti/ Zila Parishad with total electorate	Name of the candidates declared unopposed under rule	Name of the candidates for whom been cast

4. Particular of the candidates mentioned in columns (2) & (3)

(a)	(b)	(c)	(d)	(e)	(f)
Address	Caste (mention S.C. or S.T. or OBC)	Educational standard whether illiterate/ below/middle/ matric/ graduate	Age in years	Occupation	Whether held office of Panch, Sarpanch, Pradhan/Up-Pradhan Pramukh/ Up-Pramukh previously

6	6	7	8
No. of valid votes cast for each candidate	No. of rejected votes	Result of lot if any under rule 31	Remarks

4C. Preparation of roster for Reservation of seats.—Roster shall be prepared for a period of every five years, commencing from the twenty-third April, 1994, for each Village at the Tahsil level for reservation of seats for the Scheduled Castes, the Scheduled Tribes, the category of Backward Class of citizens and women.".

10. Amendment of rule 5 of the Bombay Village Panchayats (Divisions of Village into Wards and Reservation of Seats for Women, Scheduled Castes and Scheduled Tribes) Rules, 1966.— In rule 5 of the Village Panchayats (Divisions into Wards and Reservation of Seats) Rules,—

(a) in sub-rule (1),—

(i) for the words "Women, Scheduled Castes and Scheduled Tribes" the words "Scheduled Castes, the Scheduled Tribes, the Backward Class of citizens and women" shall be substituted ;

(ii) for the word "Collector" the words "an officer authorised by the State Election Commissioner" shall be substituted ;

(iii) after the words "State Government" the words "and the State Election Commissioner" shall be inserted ;

(b) in sub-rule (2), for the words " the Collector", wherever they occur, the words "the State Election Commissioner" shall be substituted ;

11. Substitution of Forms appended to the Bombay Village Panchayats (Divisions of Village into Wards and Reservation of Seats for Women, Scheduled Castes and Scheduled Tribes) Rules, 1966.—

"FORM A

[See rule 5 (1)]

NOTIFICATION

No..... In pursuance of rule 5 (1) of the Bombay Village Panchayats (Number of Members, Divisions into Wards and Reservation of Seats) Rules, 1966, I, ... the officer authorised by the State Election Commissioner hereby notify that,

(a) the village panchayat of.....shall consist of..... .....members ;

(b) the village.....shall be divided into..... ;

(c) the number of members specified in cloluma (2) of the Schedule hereto, shall be the number of members to be elected from such ward specified against it in column (1) ;

(d) the wards specified in column (1) of the Schedule shall be the wards in which seats shall be reserved for the Scheduled Castes, the Scheduled Tribes, the category of Backward Class of citizens and Women as indicated in column (3), (4), (5) and (6), respectively, of the said Schedule.

SCHEDULE

Number and extent of wards	Number of member to be elected	Number of seats reserved for the Scheduled Castes	Number of seats reserved for the Scheduled Tribes	Number of seats reserved for the Category of Backward Class of citizens
(1)	(2)	(3)	(4)	(5)

Number of seats reserved for women				
Form the Scheduled Castes (A)	Form the Scheduled Tribes (B)	Form the Category of Backward Class of citizens (C)	General (D)	Total (A+B+C+D)

The officer authorised by the State Election Commissioner

FORM 'B'

[See rule 5 (2)]

Notice

The following draft of a notification which I,..... the officer authorised by the State Election Commissioner propose to issue in pursuance of rule 5 (2) of the Bombay Village Panchayat (Number of Members, Divisions to Wards and Reservation of Seats) Rules, 1956 is hereby published for the information of all persons likely to be affected thereby, and notice is hereby given that said draft will be taken into consideration after the .....

2. Any objections or suggestions which may be received by me from any person with respect to the said notification before the ..... will be considered by me.

Notification

No. ..... In pursuance of rule 5 (2) of the Bombay Village Panchayats (Number of Members, Divisions into Wards and Reservation of Seats) Rules, 1965, I,..... the officer authorised by the State Election Commissioner hereby notify that,—

(a) the village panchayats of..... shall consist of..... members ;

(b) the village of..... shall be divided into..... wards ;

(c) the number of members specified in column (2) of the Schedule hereto, shall be the number of members to be elected for each ward specified against it in column (1) ;

(d) the wards specified in column (1) of the Schedule shall be the wards in which seats shall be reserved for the Scheduled Castes, the Scheduled Tribes, the category of Backward Class of citizens and Women as indicated in columns (3), (4), (5) and (6) respectively, of the said Schedule.

SCHEDULE

Number and extent of wards	Number of members to be elected	Number of seats reserved for the Scheduled Castes	Number of seats reserved for the Scheduled Tribes	Number of seats reserved for the Category of Backward Class of citizens
(1)	(2)	(3)	(4)	(5)

Number of seats received for women				
From the Scheduled Castes (A)	From the Scheduled Tribes (B)	From the Category of Backward Class of citizens (C) (6)	General (D)	Total (A+B+C+D)

The officer authorised by the State Election Commissioner.

CHAPTER IV

Amendments to the Bombay Village Panchayats Election Rules, 1959

12. **Amendment to the Bombay Village Panchayats Election Rules, 1959.**—Throughout the Bombay Village Panchayats Election Rules, 1959 (hereinafter, in this Chapter, referred to as the "Election Rules") –

(a) for the words "Tahsildar", "a Tahsildar", "the Tahsildar" or "the Mamlatdar", wherever they occur, the words, "an officer authorised by the State Election Commissioner" shall be substituted ;

(b) for the words "the Collector", wherever they occur, the words "the State Election Commissioner" shall be substituted ;

(c) for the words "Women Scheduled Castes and Scheduled Tribes", wherever they occur, the words " the Scheduled Castes, the Scheduled Tribes, Backward Class of citizens and Women" shall be substituted ;

(d) for the words "Women or Scheduled Castes or Scheduled Tribes", wherever they occur, the words " Scheduled Castes or Scheduled Tribes or Backward Class of citizens or Women" shall be substituted ;

(e) for the words "State Government", wherever they occur, the words "the State Election Commissioner" shall be substituted, except in, –

(i) clause (4a) of rule 2,
(ii) sub-rule (4) of rule 7,
(iii) sub-rule (3) of rule 10, and
(iv) sub-rule (3) of rule 29.

13. **Amendment of rule 4 of the Bombay Village Panchayats Election Rules, 1959.**– In rule 4 of the Election Rules, for the words ' subject to the general or special orders of the State Government" the words "rules made thereunder" shall be substituted.

14. **Substitution of rule 5 of the Bombay Village Panchayats Election Rules, 1959.**– For rule 5 of the Election Rules, the following rule shall be substituted, namely :–

"5. **Qualification of candidates for reserved seats.**—Where any seat is reserved for the Scheduled Castes, Scheduled Tribes, the category of Backward Class of citizens or Women, only persons belonging to the Scheduled Castes, Scheduled Tribes, the category of Backward Class of citizens or Women, as the case may be, shall be qualified to be chosen to fill such seat ".

15. **Amendment of rule 10 of the Bombay Village Panchayats Election Rules, 1959.**—In rule 10 of the Election Rules, in sub-rule (1),—

(a) for the words "five rupees" the words "fifty rupees" shall be substituted.

(b) for the words "rupees one" the words "rupees ten" shall be substituted.

16. **Amendment of rule 23 of the Bombay Village Panchayats Election Rules, 1959.**—In rule 23 of the Election Rules, after sub-rule (vi), the following sub-rule shall be inserted, namely :—

"(vi-a) no ballot paper shall be issued to any voter before the hour fixed for the commencement of the poll ;".

17. **Insertion of rule 23-A of the Bombay Village Panchayats Election Rules, 1959.**—After rule 23 of the Election Rules, the following rule shall be inserted, namely :—

"23-A. **Safeguards against personation.**—(1) With a view to prevent personation of voters, every voter, about whose identity the Presiding Officer or the Polling Officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the Presiding Officer or the Polling Officer and an indelible ink mark to be put on it.

(2) Any voter who refuses to allow his left forefinger to be inspected in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, he shall not be supplied with any ballot paper or allowed to vote.

Explanation.—Any reference in this rule to the left forefinger of a voter shall, in the case where the voter has his left forefinger missing, be construed as a reference to any other finger of his left hand and shall in the case where all the fingers of his left hand are missing be construed as a reference to the forefinger or any other finger of his right hand, and shall, in the case where all the fingers of both the hands are missing, be construed as a reference to such extremity of his left or right arm as he possesses."

18. **Amendment of rule 29 of the Bombay Village Panchayats Election Rules, 1959.**—In rule 29 of the Election Rules, in sub-rule (1), in the proviso, for the words "one rupee", the words "two rupees" shall be substituted.

19. **Amendment of rule 37 of the Bombay Village Panchayats Election Rules, 1959.**—In rule 37 of the Election Rules,—

(a) in the second paragraph.—

(i) the portion beginning with the words "including" and ending with the word and figures "section 16" shall be deleted ;

(ii) the word "associate shall be deleted.

(b) in third paragraph, the portion beginning with the words "the names" and ending with the words and figures "section 16 and" shall be deleted ;

(c) in the proviso,—

(i) the word "associate" shall be deleted ; and

(ii) the word "associated" shall be deleted.

20. **Substitution of rule 44 of the Bombay Village Panchayats Election Rules, 1959.**—For rule 44 of the Election Rules, the following rule shall be substituted, namely :—

"44. **Powers of State Election Commissioner to delegate its powers under these rules.**—The State Election Commissioner may delegate to an

officer authorised by him not below the rank of a Tahsildar power exercisable by him under these rules.

21. Insertion of rule 44A in the Bombay Village Panchayats Election Rules, 1959.—After rule 44 of the Election Rules, the following rule shall be inserted, namely :—

"44A. No change in division of wards and reservation of seats for election after dissolution.—In case of dissolution of a Village Panchayat before the expiry of its term, the elections to such Village Panchayat shall be held without making any changes in the formation of wards, reservation of seats and other related matters.

CHAPTER V

Amendments to the Bombay Village Panchayats (Sarpanch and Upa-Sarpanch) Election Rules, 1964

22. Amendment to the preamble of the Bombay Village Panchayats (Sarpanch and Upa-Sarpanch) Election Rules, 1964.—In the preamble to the Bombay Village Panchayats (Sarpanch and Upa-Sarpanch) Election Rules, 1964 (hereinafter, in this Chapter referred to as the "Sarpanch and Upa-Sarpanch Election Rules"), for the words, brackets, letters and figures "by clause (v) of sub-section (2) of section 176 read with", the following shall be substituted, namely :—

"by clauses (iv-aa) and (v) of sub-section (2) of section 176 read with section 30 and ;".

23. Insertion of rules 2A and 2B in the Bombay Village Panchayats Sarpanch and Upa-Sarpanch Election Rules, 1964.—After rule 2 of Sarpanch and Upa-Sarpanch Election Rules, the following rules shall be inserted, namely :—

"2A. Reservation of seats for the election of Sarpanch.—(1) The State Government shall, by notification in the Official Gazette, specify the number of offices of Sarpanchas in the Village Panchayats in the State to be reserved for the Scheduled Castes, Scheduled Tribes, the category of Backward Class of citizens and women (including the women belonging to Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens) ;

(2) The State Government shall, by notification in the Official Gazette, allot the offices of Sarpanch to be reserved for the Scheduled Castes, the Scheduled Tribes, the category of Backward class of citizens and women as specified under sub-rule (1), to Districts as follows :—

(a) The offices to be reserved for the Scheduled Castes and Scheduled Tribes in each District shall be allotted in such manner that such reservation shall bear, as nearly as may be, the same proportion to the total number of offices of Sarpanchas in the District as the population of the Scheduled Castes and Scheduled Tribes in that District bears to the total population of that District ;

(b) The offices to be reserved for the category of Backward Class of citizens in each District shall, as far as practicable, be allotted in proportion of twenty-seven per cent of the total number of offices of Sarpanchas in that District ;

(c) The offices to be reserved for the women (including the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward class of citizens) in each District shall, as far as practicable,

be allotted in proportion of one-third of the total number of offices of Sarpanchas in that District.

(3) (a) the Collector shall, by order, distribute and notify the offices of Sarpanchas to be reserved for the Scheduled Castes and the Scheduled Tribes allotted under sub-rule (2), among the Tahsils, having regard to the proportion of population of such Castes and Tribes in the Tahsil to the total population of that Tahsil ;

(b) the Collector shall, by order, distribute and notify the offices of Sarpanchas to be reserved for the category of Backward Class of citizens allotted under sub-rule (2), among the Tahsils in proportion of twenty-seven per cent of the offices of the Sarpanchas in that Tahsil.

(4) The Collector shall allot the office of Sarpanchas in the District to be reserved for women (including the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens) by drawing lots according to the instructions given by the State Government from time to time :

Provided that, the lots in respect of the women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens shall be drawn only among the offices of Sarpanchas reserved for such Castes, Tribes or, as the case may be, for the category of Backward Class of citizens ;

Provided further that, while rotating such offices in the subsequent elections the Panchayats where such offices were already reserved in earlier elections for women (including the women belonging to the Scheduled Castes and Scheduled Tribes and the category of Backward Class of citizens) shall be excluded until in all such Panchayats reservation of offices is given by rotation.

(5) The Tahsildar, by order, shall reserve the offices of Sarpanchas for the persons belonging to the Scheduled Castes and Scheduled Tribes, in a descending order, beginning with the Panchayat where the population of such Castes or Tribes is the highest among the Panchayats in the Tahsil :

Provided that, the offices of the Sarpanchas to be reserved shall be rotated in the subsequent elections, to the Panchayats in the Tahsil where no such offices have been reserved for the Scheduled Castes or Scheduled Tribes, until in all the Panchayats reservation of offices for such Castes and Tribes is given rotation.

(6) The Tahsildar, by order, shall reserve the offices of the Sarpanchas for persons belonging to the category of Backward Class of citizens by drawing lots, according to the instructions given by the State Government from time to time among the Panchayats in the Tahsil :

Provided that while drawing lots the Panchayats where the offices of Sarpanchas are reserved for the Scheduled Castes and the Scheduled Tribes in the Tahsil shall be excluded :

Provided further that, the offices of Sarpanchas to be reserved shall be rotated in the subsequent elections to the Panchayats in the Tahsil in which no such offices have been reserved for such category until in all such Panchayats in the Tahsil reservation of offices for such category is given by rotation.

28. Preparation of Roster for Reservation.—Roster shall be prepared for a period of every five years, commencing from the twenty-third of

April 1994 for each Tahsil at the District level for reservation to the offices of Sarpanchas for the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens and Women.".

THE MAHARASHTRA MUNICIPAL CORPORATIONS AND MUNICIPAL COUNCILS (AMENDMENT) ACT, 1994

The following Act of the Maharashtra Legislature having been assented to by the Governor, was published in the Maharashtra Government Gazette, Extraordinary, Part IV, dated 6th December, 1994.

MAHARASHTRA ACT NO. XXI OF 1994

An Act further to amend the Bombay Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils Act, 1965.

Whereas the Constitution of India as amended by the Constitution (Seventy-fourth) Amendment Act, 1992 has laid down a basic framework to ensure that the Municipalities are in a position to function effectively as democratic units of self-Government ;

And whereas it was expedient further to amend the existing Municipal Laws in force in the State to give effect to the provisions of the Constitution of India as amended by the Constitution (Seventy-fourth) Amendment Act, 1992 ;

And whereas both Houses of the State Legislature were not in session ;

And whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Municipal Corporation Act, (Bom. III of 1888), the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), the City of Nagpur Corporation Act, 1948 (C P. and Berar II of 1950) and the Maharashtra Municipal Councils Act, 1965 (Mah. XL of 1965), for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 1994 (Mah. Ord. VII of 1994) on the 31st May 1994 ;

And whereas upon the re-assembly of the State Legislature on the 11th July 1994, the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Bill, 1994 (L.A. Bill No. XXV of 1994) for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly on the 12th July 1994, but it could not be passed as the same came to be referred to the Joint Select Committee of both Houses of State Legislature ;

And whereas the said Ordinance was to cease to operate after the 21st August 1994, on which date the period of six weeks from the date of re-assembly of the State Legislature was to expire ;

And whereas it was expedient to take immediate action to continue the operation of the provisions of the said Ordinance by law ;

And whereas both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to continue the provisions of the said Ordinance ; and, therefore, by repealing by withdrawal the said Ordinance, promulgated with retrospective effect, that is, with effect from the 31st May 1994, the Maharashtra Municipal Corporations and

Municipal Councils (Amendment and Continuance) Ordinance, 1994 (Mah. Ord. X of 1994), on the 20th August 1994 ;

And whereas it is expedient to replace the provisions of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 1994 (Mah. Ord. VII of 1994), followed by the Maharashtra Municipal Corporations and Municipal Councils (Amendment and Continuance) Ordinance, 1994 (Mah. Ord. X of 1994) with certain modifications by an Act of the State Legislature ; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :—

CHAPTER I
Preliminary

1. **Short title and commencement.**—(1) This Act may be called the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 31st May, 1994.

CHAPTER II
Amendments to Bombay Municipal Corporation Act (Bom. III of 1888)

2. **Amendment of section 1 of Bom. III of 1888.**—In section 1 of the Bombay Municipal Corporation Act (hereinafter, in this Chapter, referred to as "the Bombay Corporation Act"), for the words "Except as is herein otherwise expressly provided, it" the word "It" shall be substituted.

3. **Amendment of section 3 of Bom. III of 1888.**—In section 3 of the Bombay Corporation Act,—

(a) in clause (al), the following shall be added at the end, namely :—

"specified as the larger urban area in the notification issued in respect thereof under clause (2) of Article 243-Q of the Constitution of India";

(b) after clause (a2), the following clause shall be inserted, namely :—

"(a3) "Backward Class of Citizens" means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes and Vimukta Jatis and Nomadic Tribes ;";

(c) in clause (b), for the words "Greater Bombay" the words "Greater Bombay, constituted or deemed to have been constituted under this Act" shall be substituted ;

(p) for clause (c), the following clause shall be substituted, namely :—

"(c) "Councillor" means a person duly elected as a member of the Corporation ; and includes a nominated Councillor who shall not have the right,—

(i) to vote at any meeting of the Corporation and Committee of the Corporation ; and

(ii) to get elected as a Mayor of the Corporation or a Chairperson of any of the Committees of the corporation ;

(e) after clause (k), the following clauses shall be inserted, namely :—

"(ka) "Scheduled Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Maharashtra under article 341 of the Constitution of India ;

(kb) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are declared

"Provided that the State Government may by notification in the Official Gazette, fix different percentages for different districts in accordance with the percentage of population of Scheduled Castes/Scheduled Tribes and other Backward Classes in such districts ;

Provided further that in case of promotion, reservation shall be made only for Scheduled Castes/Scheduled Tribes in the same proportion as provided in this section."

3. **Substitution of section 13 of Bihar Act 3 of 1992.**—In the said Act, for section 13, the following shall be substituted, namely :—

"13. **Prosecution.**—(1) When a complaint is made with regard to any appointment or promotion made in contravention of the provisions of the Act, the Collector or Deputy Commissioner of the District at district level or the Commissioner at the divisional level or the Department of Personnel and Administrative Reforms at the State level, as the case may be, on due enquiry, may, with the approval of the Government institute criminal case against the appointing authority and the concerned officers.

(2) Such prosecution shall be instituted by the Divisional Commissioner where the appointing officer is the Collector/Deputy Commissioner or by the Department of Personnel and Administrative Reforms, where the appointing officer is Divisional Commissioner."

4. **Amendment of Schedules appended to the Bihar Act 3 of 1992.**—In the said Act—

(i) In Schedule I, the following figures, brackets and words shall be deleted and shall always be deemed to have been deleted, namely :—

"(14) Kharwar
(20) Khond
(54) Banjara
(59) Bhuiya
(74) Bedia."

(ii) In Schedule II, the following figures, brackets and words shall be added and shall always be deemed to have been added, namely :—

"(36) Bhat (Hindu)".

A.R. KIDWAI,
Governor of Bihar.

Patna.
Dated 3rd March, 1994.

Published in the Bihar Gazette, dated January 17, 1994.

THE BIHAR MOTOR VEHICLE TAXATION RULES, 1994

1. **Short title, extent and commencement.**—(1) These rules may be called Bihar Motor Vehicle Taxation Rules, 1924.

(2) It shall extend to the whole of the state of Bihar.

(3) It shall come into force at once.

2. **Definition.**—In these rules, unless the context otherwise requires –

(i) "Ordinance" means Bihar Motor Vehicles Taxation Ordinance, 1993.

(ii) "Form" means a form appended to these rules.

(iii) "Schedule" means the Schedule of the Ordinance.

(iv) "Section" means the Section of the Ordinance.

(v) "Quarter" means a period as specified in Rule 3.

(vi) All other words and expressions used in these rules and not de-

fined herein shall have the same meaning as are respectively assigned to them in the Ordinance or in the Motor Vehicles Act, 1988.

3 Computation of quarterly periods.—For payment of tax, the quarterly periods referred to in Section 7 shall be the 4 periods of three months in a year, beginning on the first day of the month in which the vehicle was registered.

Example I.—If the vehicle has been registered on 9th May (of any year) 4 quarterly periods shall be :

(i) 1st May — 31st July
(ii) 1st August — 31st October
(iii) 1st November — 31st January
(iv) 1st February — 30th April.

Provided that the State Govt. may notify the districts, the categories of vehicles or both for which quarterly periods shall be 4 periods of 3 months beginning with the date and month of registration.

Example II.—If a vehicle has been registered on 9th May (of any year) the quarterly periods for this vehicle shall be following 4 periods ;

(i) 9th May — 8th August
(ii) 9th August — 8th November.
(iii) 9th November — 8th February.
(iv) 9th February — 8th May.

4. Due date of payment and penalty for non-payment of taxes in time.—(1) For vehicles other than personalised vehicles the due date of payment of tax shall be the date of expiry of the period for which the tax had been last paid. In cases where no such tax had previously been paid, the date of acquisition of the vehicle or the date when such tax is imposed by law shall be due date for tax payment. For payment of differential taxes under the provision of Section 8, the due date shall be within Seven days from the date of alteration in the vehicle or the change in its use.

(2) Where the for any period in respect of a vehicle has not been paid as required under the provisions of sub-rule (1) and continues to remain unpaid thereafter, the taxing officer may impose penalty in respect of such vehicles at the rate specified in the table below :—

TABLE

Period	Amount of penalty
(i) If paid within fifteen days from the due date of payment	Nil. This will be treated as a grace period.
(ii) If paid after fifteen days but within 30 days of the due date of payment.	Penalty to be charged at the rate of 25 percent of the tax
(iii) If paid after 30 days but within 60 days of the due date of payment.	Penalty to be charged at the rate of 50 per cent of the taxes due.
(iv) If paid after 60 days but within 90 days of due date of tax payments.	Penalty to be charged equal to the taxes due.
(v) If paid beyond 90 days after the due date.	Penalty to be charged will be twice the taxes due.

(3) Where the composite fee in respect of vehicles playing under National permit Scheme has not been paid within the due date as required

under the provisions of the said Scheme the Taxing Officer shall impose penalty at the rate provided in the said Scheme, in respect of such vehicle.

5. **Procedure for payment of tax** :-(1) The tax shall be paid by means of pay-in-slip in form A, appended hereunder, in triplicate to the branches of the Nationalised Banks or Central Cooperative Banks or post offices authorised in this behalf by the State Transport Commissioner. The tax can also be paid in cash or by means of bank draft or postal order to the Taxing Officer. In case of tax being paid by means of pay-in-slip, the branch of the bank or the post office as the case may be shall hand over the original and duplicate copy of the pay-in-slip duly receipted to the depositor and send the statement of deposits to the Taxing Officer on the following day. The person making payment shall deliver to the Taxing Officer the cash, bank draft, postal order or the duplicate copy of the duly receipted pay-in-slip, as the case may be together with the last tax taken as granted and the document referred to in sub-section (6) of section 7 :

Provided that the State Government may notify the districts, the categories of the vehicles or both for which payment of taxes will be made directly to the Taxing Officer either in cash or through Bank Draft.

(2) The declaration referred to in sub-section (6) of Section 7 shall be in Form B1.

(3) A separate declaration shall be required for each vehicle.

(4) The declaration to be submitted by the dealer or the manufacturer or the vehicle under the Authorisation granted under the Central Motor Vehicles Rules 1989 shall be in Form B2.

(5) The declaration to be filed when a Motor Vehicle is altered or is proposed to be used in a manner referred to in Section 8 so as to become a vehicle in respect of which differential Tax is to be paid shall be in form B3.

6. **Grant of receipt, tax token etc.**—(1) The Taxing Officer shall satisfy himself that every declaration delivered to him under the provisions of the Ordinance or rules is complete in every respect and that the amount tendered in the payment of the tax is equal to the amount of tax which appears from such declaration as the case may be, to be payable, and shall, if he is so satisfied, accept payment of the taxes and grant receipt therefor in form "C" with a tax token in form D or Form E as is applicable.

(2) For the vehicles in respect of which no tax is payable, the Taxing Officer will accordingly issue an exemption token in Form F.

(3) The taxing officer at the time of accepting the taxes in case of Transport vehicles and issuing the Tax token shall also make relevant entries in the Tax Card of the vehicle which the owner shall submit to the Taxing Officer. The tax card shall be in form G.

7. **Procedure for getting a no objection certificate etc.**—(1) If a owner of a vehicle other than a personalised vehicle is desirous of paying tax to taxing officer other than the one where tax was last paid, he shall apply before the taxing officer for issuing a 'No Objection Certificate' in form "H". This application shall be presented before the Taxing Officer either in person or through registered post and shall be accompanied by two self stamped envelops, one addressed to the new taxing officer and the other to the owner himself.

(2) The taxing officer, after having received the application referred to in sub-rule (1) above shall verify from his records whether any tax is due

against the vehicle. If there are no arrears outstanding, the taxing officer shall issue 'No Objection Certificate' in Form-I and forward the same to the new taxing officer through registered letter. One copy of this certificate shall also be delivered to the owner of the vehicle.

(3) The new taxing officer, after having received the 'No Objection Certificate' shall accept the taxes from the owner.

(4) The taxing officer accepting the taxes will, at once inform the previous taxing officer as well as the Owner of the vehicle.

8. **Fraction of rupees to be ignored.**—For the purpose of calculating the amount of payment under the ordinance/rules, the amount less than 50 paise shall be ignored and in case of 50 paise and above, shall be rounded off to the next rupee.

9. **Production of vehicle, certificate of registration and/or permit before Taxing Officer.**—The taxing officer may, before accepting the tax tendered to him in respect of any motor vehicles require the person tendering the tax to produce the vehicle in respect of which such tax is tendered or the certificate of registration and the permit, if any, granted in respect of such vehicle.

10. **Display of tax token.**—The tax token or exemption token granted in respect of any motor vehicle other than a Motor cycle shall be affixed in the front wind screen of the vehicle and in such a manner that it should be clearly visible to a person on the road. In case of Motorcycle, Moped, or Scooter the owner shall keep the Tax token with the vehicle.

11. **Prohibition of defacing etc. of tax token.**—No person shall deface, mutilate or otherwise tamper with the tax token or exemption token in respect of a motor vehicle or exhibit it on a motor vehicle other than the one for which such token has been issued.

12 **Procedure for replacement of lost, destroyed defaced or illegible tax token.**—(1) If a tax token is lost, destroyed, defaced or has become illegible the owner of the vehicle shall immediately report the fact to the Taxing Officer ;

Provided that if the original tax token is defaced or has become illegible the tax token shall be returned to the Taxing Officer with the application for the issue of a duplicate tax token.

(2) The Taxing Officer, on sufficient proof shown and being satisfied that the tax token is lost, destroyed, defaced or has become illegible shall, on an application made by such person, accompanied by an affidavit and on payment of fees of 20 rupees, grant to such person the duplicate tax token. Such tax token shall be marked "DUPLICATE" in red ink with the date of issue and seal of the Taxing Officer.

13. **Form etc. for temporary discontinuance from use.**—Intimation for temporary discontinuance of use of motor vehicle shall be given in Form-J stating required particulars. Any change in undertaking so delivered as required under section 17 shall be intimated to by Taxing Officer from time to time.

14. **Procedure for claiming refund.**—(1) An application for refund under section 18 shall be made to the taxing officer to whom tax was paid in form "K" showing the ground for which the refund is claimed. The application shall be accompanied by following papers :—

(i) Original Tax token or its certified copy and.

(ii) In case of temporary discontinuance from use of vehicle, a certified copy of the order passed by the competent authority under section 19.

(iii) In case of refund of one time tax adequate proof of relevant circumstances described in sub-section (2) of section 7.

(2) Having received the application under sub-rule (1) above, the Taxing officer shall verify the application and its enclosures and after being satisfied that,—

(a) The particulars of the application are correct, and

(b) All conditions prescribed in the Act and Rules for refund of taxes have been fulfilled,

he shall if he is competent subject to the provisions of Section 18, sanction the refund upto Rs. 4000 and shall issue a cheque for the refund amount in favour of the applicant. In case the amount of refund exceeds Rs. 4000, he shall forward the application alongwith his comments to the State Transport Commissioner or to the officer authorised by the State Government in this behalf and after the receipt of order from such officer shall issue a cheque for the refund amount in term of such order :

Provided that, application for refund of one time tax shall not be entertained if not presented within two months of permanent removal of the vehicle from State, its distruction alteration or its use as Transport Vehicle.

Provided further that refund shall not be allowed for Transport Vehicles registered outside the State and coming to the State on temporary permit on payment of short time tax.

15. Procedure for enquiry in respect of temporary discontinuance of vehicles.—Following procedure shall be adopted by the Taxing officer for enquiry in cases of temporary discontinuance from use of vehicles enumerated in Section 19.

(a) Immediately on receipt of undertaking specified in section 17 alongwith enclosures the taxing officer shall initiate a case record.

(b) The taxing officer, either himself, or through motor vehicle Inspector or through any other officer of enforcement branch not below the rank of Sub-Inspector shall carry out physical verification of the parking-place of the vehicle atleast once a month in a random manner. He shall record the memo of inspection on the order-sheet of the concerned case record indicating the present position of the vehicle.

(c) If the vehicle was always found on the parking-place specified in the undertaking during the period of its temporary discontinuance from use, the taxing officer, if the amount of taxes for the concerned period does not exceeds Rs. 4000 shall be competent to dispose of the case, otherwise shall forward the case record with his clear opinion to the State Transport Commissioner or to the officer authorised by State Govt. in this behalf for decision.

(d) If the vehicle is not found on its parking place during inspection made by taxing officer or by the other officer mentioned in (c) above, the claim for exemption of taxes shall stand dismissed without prejudice to any other legal action which may be taken against the owner for filing false undertaking.

(e) On intimation by the owner that the vehicle is ready for plying on road again the taxing officer shall release the papers of the vehicle to the owner.

16. **Procedure for seizure etc.**— (1) The officer authorised under sub-section (1) of section 22 shall at the time of seizure of vehicles pass order in Form L-1. The officer shall seize the vehicle after the service of the copy of this order on the registered owner or the person in control or possession of the vehicle or the driver. After such order the officer concerned shall direct that the vehicle be taken to the nearest police station or any other place, he thinks fit, mentioned in such order for safe custody.

(2) In case the owner or the person in control or possession or the driver fails or refuses to drive the vehicle to the place mentioned in the order, the officer making the seizure, may arrange to have the vehicle driven to the said place for safe custody in which case the cost of transporting the vehicle shall be recoverable from the owner or person-in-charge of the vehicle.

(3) The person from whom the vehicle is seized shall have the option to guard the same and the contents thereof, himself or by a person duly authorised by him.

(4) In case of a vehicle carrying passengers for hire or carrying goods which are perishable in nature, it may be allowed to ply to its destination if the registered owner or person having possession or control of the vehicle or the driver gives an undertaking to the effect that the vehicle shall be surrendered at the place mentioned in the order after reaching the destination.

(5) If the owner, or the person in possession and control or the driver pays the outstanding taxes penalty on taxes (if any) and fine for the offence committed and presents the proofs of such payment(s) to the officer, under whose order the vehicle was detained, the such officer may pass order in Form L-2 for the release of the vehicle.

17. **Authority for compounding and the amount.**—(1) All officers enumerated in sub-section (1) of section 22 shall be competent to compound the offence under the ordinance and the Rules.

(2) The amount payable for compounding of offence shall be fifty percent of the maximum amount of fine, prescribed for such offence under section 28.

18. **Authorities to hear Appeals and Revision.**—The authorities to hear appeals and revision under various provisions of the ordinance will be as follows :

Authorities passing an order	Appellate Authority	Revisional Authority
(i) Officer other than taxing officer and below the rank of Regional transport officer.	Taxing officer	Regional Transport officer
(ii) Taxing officer	Regional Transport officer	State Transport Commissioner
(iii) Officer other than those mentioned in serial 1 and 2 above but below the rank of State Transport Commissioner	State Transport Commissioner	Member Board of Revenue
(iv) State Transport Commissioner	Secretary Transport Dept.	Member Board of Revenue

19. **Procedure for filing and disposal of Appeal and Revision.**—(1) An application for appeal or revision shall be presented after being signed, verified and endorsed and shall contain the following particulars, namely,:—

(a) A Statement of facts of the case ;
(b) A reference of the particular order in respect of which a appeal or revision is filed ;
(c) The nature of relief prayed for ;
(d) The grounds on which the appeal or revision application is filed ;
(e) The date of service of the order objected to ;
(f) A certified copy of the order objected to ; and
(g) A challan of rupees twenty towards fees ;

(2) An application for appeal or revision may be summarily rejected where any of the aforesaid requirement mentioned in sub-rule (1) above is not complied with, in presenting the application.

(3) After a petition for appeal or revision has been received, and the authority concerned takes up the hearing of a case, a notice specifying the date, time and place fixed for hearing shall be delivered or sent by registered post with acknowledgement due to the parties to appear before the concerned authority either in person or through an Advocate or a person holding a power of attorney from the person noticed to appear, if the person concerned fails to appear in specified time and place on the date fixed, the case may be decided ex-parte.

(4) No party to an appeal or revision shall be entitled to adduce fresh evidence, either oral or documentary.

(5) If the Appellate or the Revisional Authority requires any document to be produced, or any witness to be examined to enable it to decide the appeal or the revision, the aforesaid Authority may call for such evidence or document to be produced, or may summon and examine such witness according to the procedure as laid down in the Code of Civil Procedure. If any such fresh evidence has been added by production of evidence, documents or examination of witnesses, the party affected shall be entitled to produce rebutting evidence.

(6) If the appellant or the petitioner in a revision dies, while the appeal or the revision is pending disposal, the same cannot proceed with unless the legal representative is made a party to the appeal or the revision. An application for including the legal representative shall be made to the Appellate or the Revisional Authority, within ninety days, from the date on which the appellant or the petitioner in the revision died. If no such application is made, the appeal or the revision except when the revision is initiated by the Revisional Authority suo moto, shall abate as regards the deceased appellant or petitioner, as the case may be.

20. **Mode of addressing communication by post.**—All communication by post shall be addressed to the Taxing Officer or addressed to the officer appointed as such under section 3 by his ordinary official designation with the addition of the words "Motor Vehicles Taxation Department."

21. **Application to be made at the office of the taxing officer.**—All applications made in connection with the purposes of the ordinance and rules shall be made at the office of the taxing officer on any working day during office hours unless a special place or time has been specified for this purpose.

22. **Taxing officer to fix the place and time for hearing applications.**—The Taxing Officer may for the purpose of expediting the performance of his duties under the ordinance fix a particular daily hour for hearing applications made thereunder.

23. **Registers to be maintained by the Taxing Officer.**—The Taxing Officer shall maintained following registers in his office :

(1) (a) **Taxation Register.**—This shall be maintained in Form M for all vehicles except personalised vehicle ;

(b) Each vehicle will have, separate page earmarked for it ;

(c) Appropriate entries relating to exemption/refund of taxes shall also be made in the register ;

(2) (a) **Demand Register for transport vehicles.**—This shall be maintained in Form N.

(b) This register shall be updated every year on 1st of October and 31st March.

(3) **Register for temporary discontinuance from use :**—This will be maintained in Form O.

FORM—A
[See Rule 5(i)]
Original

Cash/Transfer

Under Rs. ;
No. (To be returned to the Depositor)
Date : Current Account Pay-in-Slip Paid into the credit of "0041-Vehicle tax and Fees" Account with State Bank of India, Patna Secretariat Branch, Patna.

Regt. No. :	Type	SC/RLW :
Period of Tax Payment :	From	
Name & Address of motor vehicle owner or person concerned		

M.V. Tax :	Addl. M.V. Tax :
Fine on M.V. Tax :	Fine on Addl. M.V. Tax ;
TOTAL AMOUNT :	
Signature of Depositor :	
Teller/Head cashier	Passing Official
Scroll cash	Scroll transfer

DUPLICATE

Cash/Transfer

Under Rs. ;
(To be returned to the Depositor)
No.
Date : Current Account Pay-in-Slip paid into the credit of "0041-Vehicle tax and Fees" Account with State Bank of India Patna Secretariat Branch, Patna.

Whereas it is expedient to amend the Howrah Municipal Corporation Act, 1980 (West Ben. Act 58 of 1980), for the purpose and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. Short title and commencement.—This Act may be called the Howrah Municipal Corporation (Amendment) Act, 1994.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Insertion of new Section 177A in West Bengal Act 58 of 1980.—In the Howrah Municipal Corporation Act, 1980, after Section 177, the following section shall be inserted :—

"177A. Construction of building in contravention of the provisions of the Act or the rules made thereunder.—(1) Notwithstanding anything contained in this Act or the rules made thereunder or in any other law for the time being in force, any person, who, being responsible by himself or by any other person on his behalf, so constructs or attempts to so construct or conspires to so construct any building or additional floor or floors of any building in contravention of the provisions of this Act or the rules made thereunder as endangers or is likely to endanger human life, or any property of the Corporation whereupon the watersupply, drainage or sewerage or the road traffic is disrupted or is likely to be disrupted, or is likely to cause a fire hazard, shall be punishable with imprisonment of either description for a term which may extend to five years and also with fine which may extend to fifty thousand rupees.

Explanation.—"Person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier, or a servant or agent of an owner occupier, lessee, mortgagee, consultant, promoter or financier, who supervises or causes the construction of any building or additional floor or floors of any building as aforesaid.

(2) The offence under sub-section (1) shall be cognizable and non-bailable within the meaning of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) Where an offence under sub-section (1) has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation.—(a) "Company" means a body corporate, and includes a firm or other association of individuals ; and

(b) "Director", in relation to a firm, means a partner in the firm.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 469-L, dated 22nd March, 1994.

THE WEST BENGAL STATE HEALTH SERVICE (AMENDMENT) ACT, 1994
WEST BENGAL ACT NO. IV OF 1994

An Act to amend the West Bengal State Health Service Act, 1990.

Whereas it is expedient to amend the West Bengal State Health Service Act, 1990 (West Ben. Act VII of 1990), for the purpose and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follow :—

1. **Short title and commencement.**—(1) This Act may be called the West Bengal State Health Service (Amendment) Act, 1994.

(2) Section 3 shall come into force at once ; and the remaining provisions of this Act shall be deemed to have come into force on the 25th day of May 1990.

2. **Amendment of Section 19A of West Ben. Act 7 of 1990.**—In Section 19A of the West Bengal State Health Service Act, 1990 (hereinafter referred as the principal Act),—

(a) after the words "elevate or promote any person holding a teaching post in the West Bengal Medical Education Service to a higher rank" the words "or make recruitment to any teaching post in the West Bengal Medical Education Service," shall be inserted ;

(b) in the proviso, for the words "a period of three years", the words "a period of five years" shall be substituted.

3. **Saving and validation.**—Anything done or any action taken under the principal Act as amended by this Act before the publication of this Act in the Official Gazette shall be deemed to have been validly done or taken under the principal Act as amended by this Act as if this Act were in force when such thing was done or such action was taken.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 941-B., dated 14th June, 1993

THE WEST BENGAL TOWN AND COUNTRY (PLANNING AND DEVELOPMENT) (AMENDMENT) ACT, 1993
WEST BENGAL ACT NO. VII OF 1993

An Act to amend the West Bengal Town and Country (Planning and Development) Act, 1979.

Whereas it is expedient to amend the West Bengal Town and Country (Planning and Development) Act, 1979 (West Ben. Act XIII of 1979) for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the forty-fourth year of the Republic of India, by the Legislature of West Bengal, as follow :—

1. **Short title and commencement.**—(1) This Act may be called the West Bengal Town and Country (Planning and Development) (Amendment) Act, 1993.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. **Insertion of new Section 106A in West Ben. Act XIII of 1979.**—In the West Bengal Town and Country (Planning and Development) Act, 1979 (hereinafter referred to as the principal Act)' in Chapter IX, after Section

106, the following section shall be inserted :—

"106A. Levy of civic amenity charge.—(1) Notwithstanding anything contained in the foregoing provisions of this chapter, every Planning Authority or Development Authority may, in accordance with th provisions of this Act and the rules made thereunder and with the previous sonction of the State Government by notification, levy a charge (hereinafter called the civic amenity charge) for extending such civic amenity to the whole or any part of the Planning Area and at such rate as may be prescribed.

(2) The civic amnity charge shall be recoverable as arrears of land revenue.

Explanation.—For the purposes of this section, "civic amnity" shall have the same meaning as in the West Bengal Government Townships (Extension of Civic Aminition) Act, 1975 (West Ben. Act XLII of 1975).

3. Amendment of section 134.—In section 134 of the pricipal Act, for the words and brackets "(except the power to prepare any development plan or development scheme or to make regulations", the words and brackets "except the power to make regulations)" shall be substituted.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 1285-E, dated 20th July, 1994.

THE D.N. DE HOMOEOPATHIC MEDICAL COLLEGE AND HOSPITAL (TAKINGOVER OF MANAGEMENT AND SUBSEQUENT ACQUISITION) (AMENDMENT) ACT, 1994

WEST BENGAL ACT NO. XXXIII OF 1994

An Act to amend the D.N. De Homoeopathic Medical College and Hospital (Takingover of Management and Subsequent Acquisition) Act, 1983.

Whereas it is expedient to amend the D.N. De Homoeopathic Medical College and Hospital (Takingover of Management and Subsequent Acquisition) Act, 1983 (West Ben. Act X of 1983) for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. Short title and commencement.—(1) This Act may be called the D.N. De Homoeopathic Medical College and Hospital (Takingover of Management and Subsequent Acquisition) (Amendment) Act, 1994.

(2) It shall be deemed to have come into force on the 1st day of January, 1993.

2. Amendment of section 3 of West Bengal Act 10 of 1983.—In sub-section (3) of section 3 of the D.N. De Homoeopathic Medical College and Hospital (Takingover of Management and Subsequent Acquisition) Act, 1983 (hereinafter referred to as the principal Act), for the words "ten years", the words "fifteen years" shall be substituted.

3. Amendment of section 4.—In sub-section (1) of section 4 of the principal Act, for the words "ten years", the words "fifteen years" shall be substituted.

4. Saving and validation.—Anything done or any action taken under

the principal Act as amended by this Act before the publication of this Act in the Official Gazette shall be deemed to have been validly done or taken under the principal Act as amended by this Act as if this Act were in force when such thing was done or such action was taken.

Published in the Calcutta Gazette, Extraordinary, Part III, No. 473-L, dated 24th March, 1994.

THE WEST BENGAL MUNICIPAL CORPORATION LAWS (SECOND AMENDMENT) ACT, 1994

WEST BENGAL ACT IX OF 1994

An Act to amend the Siliguri Municipal Corporation Act, 1990, the Asansol Municipal Corporation Act, 1990 and the Chandernagore Municipal Corporation Act, 1990.

Whereas it is expedient to amend the Siliguri Municipal Corporation Act, 1990 (W. Ben. Act 30 of 1990), the Asansol Municipal Corporation Act, 1990 (W. Ben. Act 31 of 1990) and the Chandernagore Municipal Corporation 1990 (W. Ben. Act 32 of 1990), for the purposes and in the manner hereinafter appearing ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. **Short title and commencement.**—(1) This Act may be called the West Bengal Municipal Corporation Laws (Second Amendment) Act, 1994.

(2) This section shall come into force at once ; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

5. **Amendment of West Ben. Act XXX of 1990.**—In the Siliguri Municipal Corporation Act, 1990,—

(1) in section 5, in sub-section (3), the words "as may be notified by the State Government" shall be added at the end of the words "shall constitute a constituency" ;

(2) the proviso to sub-section (3) of section 5 shall be omitted ;

(3) after section 5, the following section shall be inserted ;—

"5. **Oath of allegiance to be taken by Councillors.**—(1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected to be a Councillor or Alderman shall, before taking his seat, make and subscribe before an officer appointed by the State Government an oath or affirmation of his allegiance to the Constitution of India in the following form :—

"I, A. B, having been elected a Councillor/Alderman of the Corporation, do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter.".

(2) Any person who, having been elected a Councillor or Alderman fails to make and subscribe, within three months of the date on which his term of office commences, the oath of affirmation under sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant :

Provided that the State Government may, for reasons to be recorded

in writing, extend in each case or class of cases the above period of three months by such period as it think fit.

(3) Any Councillor or Alderman nominated by the Mayor as the Deputy Mayor or a member of the Mayor-in-Council under sub-section (2) of section 8, shall assume office forthwith after taking the oath of secrecy in the following form :—

"I, A. B, do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Deputy Mayor/a member of the Mayor-in-Council except as may be required for the due discharge of any duties as such Deputy Mayor/Member of the Mayor-in-Council.".

(4) In section 6, in clause (b), for the words "who shall assume office forthwith after taking such oath of secrecy as may be prescribed,", the words, figure and letter "and the Mayor or, as the case may be, the Chairman so elected shall assume office forthwith after taking the oath of secrecy under section 5A," shall be substituted ;

(5) in section 8,—

(a) in sub-section (1), for the words "not exceeding five,", the words "not exceeding seven," shall be substituted ;

(b) in sub-section (2),—

(a) for the words "other elected members", the words "other members" shall be substituted, and

(ii) after the words "nominated by the Mayor", the words "from amongst the elected members of the Corporation" shall be inserted ;

(6) in section 9,—

(a) for the words "from the date of his nomination to the Mayor-in-Council", the words, figure, letter and brackets "from the date of his taking the oath of secrecy as Deputy Mayor or as a member of the Mayor-in-Council, as the case may be, under sub-section (3) of section 5A" shall be substituted ;

(b) in clause (b), for the word "this", the word "his" shall be substituted ;

(c) in clause (d), after the words "ceases to hold office", the words " for any reason other than the reason of death" shall be inserted ;

(7) after section 11 the following section shall be inserted :—

"11. **Ward Committee.**—(1) Each ward of the Corporation shall have a Ward Committee.

(2) The composition and the functions of the Ward Committee shall be such as the State Government may determine by notification.

(3) The Councillor elected from a ward shall be the Chairperson of the Ward Committee for that ward." ;

(8) in section 259, after sub-section (2), the following sub-section shall be inserted :—

"(2A) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, till such time as the State Government makes rules under this Act providing for all or any of the matters, the rules made under the Bengal Municipal Act, 1932 (Ben. Act 15 of 1932), the Howrah Municipal Corporation Act, 1980 (West Ben. Act 58 of 1980), or the

Calcutta Municipal Corporation Act, 1980 (West Ben. Act 59 of 1980), providing for all or any of the similar matters may be made applicable to the Corporation by the State Government to such extent and with such modifications as the State Government may by notification specify." ;

(9) after Chapter XXI, the following Chapter shall be inserted ;—

"CHAPTER XXIA

Delegation, co-ordination and control

263A. Delegation of power by the State Government.—(1) The State Government may, subject to such conditions or restrictions as it may deem fit to impose, by notification, delegate to the Director of Local Bodies, appointed under any law for the time being in force, any of the powers vested in, or the functions imposed upon, the State Government by or under this Act, and thereupon, the Director of Local Bodies shall exercise such powers or perform such functions as if he were the State Government.

(2) The State Government may, by notification, authorise one or more Deputy Directors or Assistant Directors of Local Bodies, appointed under any law for the time being in force, to exercise the powers and perform the functions of the Director of Local Bodies.

(3) Notwithstanding anything contained in this Chapter, the State Government may authorise the District Magistrate or the Sub-divisional Magistrate to exercise any of the powers or perform any of the functions of within his jurisdiction, on matters delegated under sub-sections (1) and (2).

263B. Supervision by Director of Local Bodies.—(1) The Director of Local Bodies, in addition to the powers or functions delegated to him, may—

(a) inspect, or cause to be inspected, any immovable property owned, used or occupied by the Corporation or any work in progress under the direction of any authority of the Corporation ;

(b) inspect or examine any department of the Corporation or any office, service, work or thing under the control of the Corporation ;

(c) record, in writing, for the consideration of the Corporation, any observation he thinks proper in regard to the proceedings or duties of the Corporation.

(2) For the purpose of inspection or examination, the Director of Local Bodies may require the Chief Executive Officer or any officer of the Corporation—

(a) to produce any book, record, correspondence, plan or other document.

(b) to furnish any returns, plan, estimate, statement, account or statistics, or

(c) to furnish or obtain any report.

(3) When a requisition is made under sub-section (2), the Chief Executive Officer or any officer of the Corporation, as the case may be, shall comply with such requisition.

263C. Power of State Government to call for documents, returns or information from Chief Executive Officer or any officer of Corporation.—The State Government may, at any time,—

(a) call for any document in the possession or under the control of Chief Executive Officer or any officer of the Corporation ;

(b) require the Chief Executive Officer or any officer of the Corpora-

tion to furnish any return, plan, estimate, statement, account, report or statistics, or any information whatsoever.

263D. Inspection of Corporation works and institutions by Government officers.—Any work or institution constructed or maintained, or any programme undertaken in whole or in part, at the expense of the Corporation, and all registers, books, accounts or other documents relating thereto, at all times, be open to inspection by such officers as the State Government may appoint in this behalf.

263E. Power to suspend action under the Act.—(1) The State Government may, after giving the Corporation a reasonable opportunity of being heard, annul any proceeding or resolution or order which it considers to be not in conformity with the provisions of this Act or the rules made thereunder and may do all things necessary to secure such conformity ;

Provided that pending the hearing to be given to the Corporation, the State Government may suspend the operation of such proceeding or resolution or order.

(2) The State Government, on receiving any information that the corporation is about to pass an order or instruction or implement any act in excess of any power conferred by this Act, may forthwith prohibit the passing of such order or instruction or implementation of such Act, and such prohibition shall be binding on the Corporation ;

Provided that the State Government shall immediately thereafter give an opportunity to the corporation to make its representation in the matter upon which the State Government shall give its final order with reasons in writing.

263F. Powers of State Government in case of default.—(1) If, at any time, it appears to the State Government that the corporation has made default in performing any duty imposed on it by or under this Act or any other law for the time being in force, the State Government may, by order in writing, fix a period for due performance of such duty.

(2) If such duty is not performed within the period so fixed, the State Government may appoint its own agency to perform it, and may direct that the expenses of performing it shall be paid to such agency from the Corporation Fund within such time as it may fix.

263G. Co-ordination for purposes of planning and development.—(1) The State Government may require the Corporation to be integrated with such authorities at the level of district, region or State for the purposes of co-ordination of planning and development, as it may deem fit and proper.

(2) When so required, it shall be the duty of the Corporation to participate in such process of co-ordination in accordance with such procedure as the State Government may determine.

263H. Civic participation.—(1) The Corporation shall convene a meeting of the citizens in each area covered by a Borough Committee once a year for placing its annual administration report and annual financial statement for public information and deliberation thereon.

(2) The view of the citizens on the said report and statement shall be recorded and considered in such manner as may be prescribed.

263I. Services of Municipal Engineering Directorate.—(1) The State

Government may require the Corporation to avail of the services of the Municipal Engineering Directorate of the State Government in all matters on which the State Government considers such services necessary.

(2) The power of the State Government under sub-section (1) shall include the power to post a technical officer, namely, an engineer, architect or town planner, from the pool of the Municipal Engineering Directorate, with or without supporting staff, who shall discharge his functions in such manner as the State Government may decide.

263J. Training and Research Programmes of Institute of Local Government and Urban Studies.—(1) The State Government may require the Corporation to participate in such training and research programmes as may be organised by the Institute of Local Government and Urban Studies from time to time in aid of the Corporation functionaries and personnel.

(2) It shall be obligatory on the part of the Corporation to furnish such papers, reports, documents, information, data and statistics as may be called for by the Institute of Local Government and Urban Studies from time to time.

263K. Appointment of officers for Corporation from cadres of State Government.—Notwithstanding anything contained elsewhere in this Act, the State Government may, in consultation with the Mayor, appoint, from its own cadre, an officer to be posted for the Corporation by way of support service on such terms and conditions as the State Government may decide :

Provided that an officer so appointed shall be under the administrative control of the Mayor-in-Council.

263L. Disputes.—If any dispute arises on any matter between the Corporation and any other local authority, such dispute shall be referred to the State Government whose decision thereon shall be final and shall not be questioned in any Court.

263M. Savings as to certain suits and proceedings.—(1) Any suit or other legal proceeding instituted, or any action taken, which but for the passing of this Act would have been instituted or taken under the Bengal Municipal Act, 1932 (Ben. Act 15 of 1932), by or against the Siliguri Municipality constituted under that Act may be continued or instituted by the Corporation.

(2) For the purposes of such suit or legal proceedings and of all matters incidental thereto, the powers and the duties of the Commissioners or the Board of Commissioners of the Siliguri Municipality constituted under the Bengal Municipal Act, 1932, shall vest in the Corporation constituted or appointed under this Act.

(3) Save as provided in sub-section (2), the procedure laid down in this Act shall be followed in all proceedings relating to a contravention of the provisions of the Bengal Municipal Act, 1932." ;

(10) in Section 269, for the words "to assist the Corporation, the Mayor-in-Council", the words "to assist the Mayor, the Mayor-in-Council, the Councillors," shall be substituted ;

(11) after Section 283, the following section shall be inserted and shall be deemed always to have been inserted :

"284. Cessation of application of Ben. Act 15 of 1932.—(1) With effect from the date of commencement of this Act, the provisions of the

Bengal Municipal Act, 1932, shall cease to apply to any area of the Corporation and shall cease to be in force in such area.

(2) Notwithstanding the provisions of sub-section (1) —

(a) every budget passed, loan taken, assessment made, building plan sanctioned, licence for permission or sanction granted or issued or any other similar action taken under the Bengal Municipal Act, 1932, and in force immediately before the commencement of this Act, shall, at the date of commencement of the Act, be deemed to have been passed, taken, made, sanctioned, granted or issued under this Act and shall, unless altered, modified cancelled, suspended, or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so passed, taken, made, sanctioned, granted or issued ;

(b) all properties, movable or immovable and all rights and interest of whatever kind, owned by, or vested in, the Siliguri Municipality shall, at the date of commencement of this Act, be deemed to be owned by, or vested in, the Corporation ;

(c) all contracts made or liabilities incurred by the Siliguri Municipality and legally subsisting against that Municipality immediately before the commencement of this Act, shall, at the date of commencement of this Act, pass on to the Corporation ; and

(d) all officers or other employees appointed under the Bengal Municipal Act, 1932, and continuing in office immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been appointed under this Act.

Explanation.—"Siliguri Municipality" shall means the Siliguri Municipality constituted under the Bengal Municipal Act, 1932.

3. Amendment of West Ben. Act 31 of 1990.—In the Asansol Municipal Corporation Act, 1990 —

(1) in Section 5, in sub-section (5), the words "as may be notified by the State Government" shall be added at the end of the words "shall constitute a constituency";

(2) in Section 5, in sub-section (5), the proviso shall be omitted ;

(3) after Section 6, the following section shall be inserted :—

'6A. Oath of allegiance to be taken by Councillors.—(1) Notwithstanding anything contained in the Indian Oaths Act, 1873, (10 of 1873), every person who is elected to be a Councillor or Alderman shall, before taking his seat, make and subscribe before an officer appointed by the State Government an oath or affirmation of his allegiance to the Constitution of India in the following form :—

"I, A.B., having been elected a Councillor/Alderman of Corporation, do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter.",

(2) Any person who, having been elected a Councillor or Alderman, fails to make and subscribe, within three months of the date on which his terms of office commences, the oath or affirmation under sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant :

Provided that the State Government may, for reasons to be recorded in

writing, extend in each case or class of cases the above period of three months by such period as it thinks fit.

(3) Any Councillor or Alderman nominated by the Mayor as the Deputy Mayor or a member of the Mayor-in-Council under sub-section (2) of Section 8, shall assume office forthwith after taking the oath of secrecy in the following form ;—

"I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Deputy Mayor/a Member of the Mayor-in-Council except as may be required for the due discharge of my duties as such Deputy Mayor/ Member of the Mayor-in-Council.",

(4) in Section 6, in clause (b), for the words "who shall assume office forthwith after taking such oath of secrecy as may be prescribed,", the words, figure and letter "and the Mayor or, as the case may be, the Chairman so elected shall assume office forthwith after taking the oath of secrecy under Section 5A." shall be substituted ;

(5) in Section 8,—

(a) in sub-section (1), for the words "not exceeding five.", the words "not exceeding seven," shall be substituted ;

(b) in sub-section (2),—

(i) for the words "other elected members", the words, "other members" shall be substituted, and

(ii) after the words 'nominated by the Mayor", the words "from amongst the elected members of the Corporation" shall be inserted ;

(6) in Section 9,—

(a) for the words "from the date of his nomination to the Mayor-in-Council", the words, letter and brackets "from the date of his taking the oath of secrecy as Deputy Mayor or as a member of the Mayor-in-Council, as the case may be, under sub-section (3) of Section 5A" shall be substituted ;

(b) in clause (b), for the word "this", the word "his" shall be substituted ;

(c) in clause (d), after the words "cease to hold office" the words "for any reason other than the reason of death" shall be inserted ;

(7) after Section 11, the following section shall be inserted ;—

"11A. Ward Committee.—(1) Each ward of the Corporation shall have a Ward-Committee.

(2) The composition and the functions of the Ward Committee shall be such as the State Government may determine by notification.

(3) The Councillor elected from a ward shall be the Chairperson of the Ward Committee for that ward." ;

(8) in Section 259, after sub-section (2), the following sub-section shall be inserted :—

"(2A) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, till such time as the State Government makes rules under this Act providing for all or any of the matters, the rules made under the Bengal Municipal Act, 1932 (Ben. Act 15 of 1932), the Howrah Municipal Corporation Act, 1980 (West Ben. Act 58 of 1980), or the Calcutta Municipal Corporation Act, 1980 (West Ben. Act 59 of 1980),

providing for all or any of the similar matters may be made applicable to the Corporation by the State Government, to such extent and with such modifications as the State Government may by notifications specify.";

(9) after Chapter XX, the following Chapter shall be inserted ;—

"CHAPTER XXA

Delegation Co-ordination and Control

263F. Delegation of power by the State Government.—(1) The State Government may, subject to such conditions or restrictions as it may deem fit to impose, by notification, delegate to the Director or Local Bodies, appointed under any law for the time being in force, any of the powers vested in, or the functions imposed upon the State Government by or under this Act, and thereupon, the Director of Local Bodies shall exercise such powers or perform such functions as if he were the State Government.

(2) The State Government may, by notification, authorise one or more Deputy Directors or Assistant Directors of Local Bodies, appointed under any law for the time being in force, to exercise the powers and perform the functions of the Directors of Local Bodies.

(3) Notwithstanding anything contained in this Chapter, the State Government may authorise the District Magistrate or the Sub-Divisional Magistrate to exercise any of the powers or perform any of the functions within his jurisdiction, on matter delegated under sub sections (1) and (2).

263B. Supervision by Director of Local Bodies.—(1) The Director of Local Bodies, in addition to the powers or functions delegated to him, may—

(a) inspect, or cause to be inspected, any immovable property owned, used or occupied by the Corporation or any work in progress under the direction of any authority of the Corporation ;

(b) inspect or examine any department of the Corporation or any office, service, work or thing under the control of the Corporation ;

(c) record, in writing, for the consideration of the Corporation, any observation he thinks proper in regard to the proceedings or duties of the Corporation.

(2) For the purpose of inspection or examination, the Director of Local Bodies may require the Chief Executive Officer or any officer of the Corporation—

(a) to produce any book, record, correspondence, plan or other document,

(b) to furnish any return, plan, estimate, statement, account or statistics or

(c) to furnish or obtain any report.

(3) When a requisition is made under sub-section (2), the Chief Executive Officer or any officer of the Corporation, as the case may be, shall comply with such requisition.

263C. Power of the State Government to call for documents, returns or information from Chief Executive Officer or any officer of Corporation.—The State Government may, at any time.—

(a) call for any document in the possession or under the control of the Chief Executive Officer or any officer of the Corporation ;

(b) require the Chief Executive Officer or any officer of the Corporation to furnish any return, plan, estimate, statement, account, report of statistics, or any information whatsoever.

263D. Inspection of Corporation works and institutions by Government officers.—Any work or institution constructed or maintained or any programme undertaken in whole or in part, at the expense of the Corporation, and all registers, books, accounts or other documents relating thereto, shall, at all times, be open to inspection by such officers as the State Government may appoint in this behalf.

263E. Power to suspend action under this Act.—(1) The State Government may, after giving the Corporation a reasonable opportunity of being heard, annul any proceeding or resolution or order which it considers to be not in conformity with the provisions of this Act or the rules made thereunder and may do all things necessary to secure such conformity :

Provided that pending the hearing to be given to the Corporation, the State Government may suspend the operation of such proceeding or resolution or order.

(2) The State Government, on receiving any information that the Corporation is about to pass an order or instruction or implement any act in excess of any power conferred by this Act, may forthwith prohibit the passing of such order or instruction or implementation of such act, and such prohibition shall be binding on the Corporation ;

Provided that the State Goverment shall immediately thereafter give an opportunity to the Corporation to make its representation in the matter upon which the State Government shall give final order with reasons in writing.

263F. Power of State Government in case of default.—(1) If, at any time, it appears to the State Government that the Corporation has made default in performing any duty imposed on it by or under this Act or any other law for the time being in force, the State Government may, by order in writing, fix a period for due performance of such duty.

(2) If such duty is not performed within the period so fixed, the State Government may appoint its own agency to perform it, and may direct that the expenses of performing it shall be paid to such agency from the Corporation Fund within such time as it may fix.

263G. Co-ordinate for purposes of planning and development.—(1) The State Government may require the Corporation to be integrated with such authorities at the level of district, region or State for the purposes of co-ordination of planning and development, as it may deem fit and proper.

(2) When so required, it shall be the duty of the Corporation to participate in such process of co-ordination in accordance with such procedure as the State Government may determine.

263H. Civil participation.—(1) The Corporation shall convene a meeting of the citizens in each area covered by a Borough Committee once a year for placing its annual administration report and annual financial statement for public information and deliberation thereon.

(2) The views of the citizens on the said report and statement shall be recorded and considered in such manner as may be prescribed.

263I. Services of Municipal Engineering Directorate.—(1) The State Government may require the Corporation to avail of the services of the

Municipal Engineering Directorate of the State Government in all matters in which the State Government considers such services necessary.

(2) The power of the State Government under sub-section (1) shall include the power to post a technical officer, namely, an engineer, architect or town planner, from the pool of the Municipal Engineering Directorate, with or without supporting staff, who shall discharge his functions in such manner as the State Government may decide.

263J. **Training and Research Programmes of Institute of Local Government and Urban Studies.**—(1) The State Government may require the Corporation to participate in such trainin and research programmes as may be organised by the Institute of Local Government and Urban Studies from time to time in aid of the Corporation functionaries and personnel.

(2) It shall be obligatory on the part of the Corporation to furnish such papers, reports, documents, information, data and statistics as may be called for by the Institute of Local Government and Urban Studies from time to time.

269K. **Appointment officers for Corporation from cadres of State Government.**—Notwithstanding anything contained elsewhere in this Act, the State Government may, in consultation with the Mayor, appoint, from its own cadre, an officer to be posted for the Corporation by way of support service on such terms and conditions as the State Government may decide :

Provided that an officer so appointed shall be under the administrative control of the Mayor-in-Council.

263L. **Disputes.**—If any dispute arises on any matter between the Corporation and any other local authority, such dispute shall be referred to the State Government whose decision thereon shall be final and shall not be questioned in any Court

263M. **Savings as to certain suits and proceedings.**—(1) Any suit or other legal proceeding instituted, or any action taken, which but for the passing of this Act would have been instituted or taken under the Bengal Municipal Act, 1932, (Ben. Act 15 of 1932), by or against the Asansol Municipality constituted under that Act may be continued or instituted by Corporation.

(2) For the purposes of such suit or legal proceedings and of all matters incidental thereto, the powers and the duties of the Commissioners or the Board of Commissioners of the Asansol Municipality constituted under the Bengal Municipal Act, 1932, shall vest in the Corporation constituted or appointed under this Act.

(3) Save as provided in sub-section (2), the procedure laid down in this Act shall be followed in all proceedings relating to a contravention of the provisions of the Bengal Municipal Act, 1932." ;

(10) in Section 269, for the words "to assist the Corporation, the Mayor-in Council.", the words "to assist the Mayor-in Council, the Councillor," shall be substituted.

(11) after Section 283, the following section shall be inserted and shall be deemed always to have been inserted :—

"284. **Cessation of application of Ben. Act XV of 1932.**—(1) With effect from the date of commencement of this Act, the provisions of the Bengal Municipal Act, 1932, shall cease to apply to any area of the Corpo-

ration and shall cease to be in force in such area.

(2) Notwithstanding the provisions of sub-section (1),—

(a) every budget passed, loan taken, assessment made, building plan sanctioned, licence or permission or sanction granted or issued or any other similar action taken under the Bengal Municipal Act, 1932, and in force immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been passed, taken, made, sanctioned, granted or issued under this Act and shall, unless altered, modified, cancelled, suspended, or withdrawn, as the case may be, under this Act remain in force for the period, if any, for which it was so passed, taken, made, sanctioned, granted or issued ;

(b) all properties, movable or immovable, and all rights and interest of whatever kind, owned by, or vested in, the Asansol Municipality shall at the date of commencement of this Act, be deemed to be owned by, or vested in, the Corporation ;

(c) all contracts made or liabilities incurred by the Asansol Municipality and legally subsisting against that Municipality immediately before the commencement of this Act, shall, at the date of commencement of this Act, pass on to the Corporation ; and

(d) all officers or other employees appointed under the Bengal Municipal Act, 1933, and continuing in office immediately before the commencement of this Act, be deemed to have been appointed under this Act.

Explanation.—"Asansol Municipality" shall mean the Asansol Municipality constituted under the Bengal Municipal Act, 1932.

4. Amendment of West Ben. Act 32 of 1990.—In the Chandernagore Municipal Corporation Act, 1990,—

(1) in Section 5, in sub-section (5), the words "as may be notified by the State Government" shall be added at the end of the words "shall constitute a constituency" ;

(2) in Section 6, in sub-section (5), the proviso shall be omitted ;

(3) after Section 6, the following section shall be inserted :—

'6A. Oath of allegiance to be taken by Councillors.—(1) Notwithstanding anything contained in the Indian Oaths Act, 1873, (10 of 1873), every person who is elected to be a Councillor or Alderman shall, before taking his seat, made and subscribe before an officer appointed by the State Government an oath or affirmation of his allegience to the Constitution of India in the following form :

"I, A. B., having been elected a Councillor/Alderman of the Corporation, do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter."

(2) Any person who, having been elected a Councillor or Alderman, fails to make and subscribe, within three months of the date on which his terms of office commences, the oath or affirmation under sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant :

Provided that the State Government may, for reasons to be recorded in writing, extend in each case or class of cases the above period of three months by such period as it thinks fit.

(3) Any Councillor or Alderman nominated by the Mayor as the Deputy Mayor or a member of the Mayor-in-Council under sub-section (2) of Section 3, shall assume office forthwith after taking the oath of secrecy in the following form :—

"I, A. B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Deputy Mayor a Member of the Mayor-in-Council except as may be required for the due discharge of my duties as such Deputy Mayor/Member of the Mayor-in-Council."

(4) in Section 6, in clause (b), for the words "who shall assume office forthwith after taking such oath of secrecy as may be prescribed," the words, figure and letter "and the Mayor or, as the case may be, the Chairman so elected shall assume office forthwith after taking the oath of secrecy under Section 5A." shall be substituted ;

(5) in Section 8,—

(a) in sub-section (1), for the words "not exceeding five", the words "not exceeding seven." shall be substituted ;

(b) in sub-section (2).—

(i) for the words "other elected members", the words, "other members" shall be substituted ; and

(ii) after the words "nominated by the Mayor", the words "from amongst the elected member of the Corporation" shall be inserted ;

(6) in Section 9.—

(a) for the words "from the date of his nomination to the Mayor-in-Council", the words, letter and brackets "from the date of his taking the oath of secrecy as Deputy Mayor or as a member of the Mayor-in-Council, as the case may be under sub-section (3) of Section 5A." shall be substituted ;

(b) in clause (b), for the word "this", the word "his" shall be substituted ;

(c) in clause (d), after the words "ceases to hold office", the words "for any reason other than the reason of death" shall be inserted ;

(7) after Section 11, the following section shall be inserted.—

"11A. Ward Committee.—(1) Each ward of the Corporation shall have a Ward Committee.

(2) The composition and the functions of the Ward Committee shall be such as the State Government may determine by notification.

(3) The Councillor elected from a ward shall be the Chairperson of the Ward Committee for that ward. ;

(8) in Section 263, after sub-section (2), the following sub-section shall be inserted :—

"(2A) Notwithstanding anything contained in the foregoing provisions of this section or, elsewhere in this Act, till such time as the State Government makes rules under this Act providing for all or any of the matters, the rules made under the Bengal Municipal Act, 1932 (Ben. Act 15 of 1932), the Howrah Municipal Corporation Act, 1980 (West Ben. Act 58 of 1980) or the Calcutta Municipal Corporation Act, 1980 (West Ben. Act 59 of 1980), providing for all or any of the similar matters may be made appli-

cable to the Corporation by the State Government to such extent and with such modifications as the State Government may by notifications specify."

(9) after Chapter XX, the following Chapter shall be inserted :—

CHAPTER XXA

Delegation, Co-ordination and control

266A. Delegation of power by the State Government.—(1) The State Government may, subject to such conditions or restrictions as it may deem fit to impose, by notification, delegate to the Director of Local Bodies, appointed under any law for the time being in force, any of the powers vested in, or the functions imposed upon, the State Government by or under this Act, and thereupon, the Director of Local Bodies shall exercise such powers or perform such functions as if he were the State Government.

(2) The State Government may, by notification, authorise one or more Deputy Directors or Assistant Directors of Local Bodies, appointed under any law for the time being in force, to exercise the powers and perform the functions of the Director of Local Bodies.

(3) Notwithstanding anything contained in this Chapter, the State Government may authorise the District Magistrate or the Sub-divisional Magistrate to exercise any of the powers or perform any of the functions within his jurisdiction, on matters delegated under sub-section (1) and (2).

266B. Supervision by Director of Local Bodies.—(1) The Director of Local Bodies, in addition to the powers or functions delegated to him, may,—

(a) inspect, or cause to be inspected, any immovable property owned, used or occupied by the Corporation or any work in progress under the direction of any authority of the Corporation ;

(b) inspect or examine any department of the Corporation or any office, service, work or thing under the control of the Corporation ;

(c) record, in writing, for the consideration of the Corporation, any observations he thinks proper in regard to the proceedings or duties of the Corporation.

(2) For the purpose of inspection or examination, the Director of Local Bodies may require the Chief Executive Officer or any officer of the Corporation—

(a) to produce any book, record, correspondence, plan or other document,

(b) to furnish any return, plan, estimate, statement, account or statistics, or

(c) to furnish or obtain any report.

(3) When a requestion is made under sub-section (2), the Chief Executive Officer or any officer of the Corporation, as the case may be, shall comply with such requestion.

266C. Power of State Government to call for documents, returns or information from Chief Executive Officer or any officer of Corporation.—The State Government may, at any time,—

(a) call for any document in the possession or under the control of the Chief Executive Officer or any officer of the Corporation ;

(b) require the Chief Executive Officer or any officer of the Corporation to furnish any return, plan, estimate, statement, account, report or statistics, or any information whatsoever,

that what is stated herein is true to the best of my knowledge and belief.

Signature————————

Designation————————

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM XIV

Form of application for revision under Section 15(3) of the West Bengal Luxury Tax Act, 1994

[See rule 25(3)]

To

The————————

The————————day of————————

(a) Period of assessment————————

(b) Date of order appealed against————————

(c) Name and designation of the officer who passed the order————————

(d) (i) Amount of luxury tax assessed

(ii) Amount of penalty imposed

(iii) Amount of interest determined

(e) (i) Amount of luxury tax admitted

(ii) Amount of penalty admitted

(iii) Amount of interest admitted

(f) (i) Amount of luxury tax in dispute

(ii) Amount of penalty in dispute

(iii) Amount of interest in dispute

The petition of————carrying on business known as————bearing licence No.————whose chief place of business is situated at————sheweth as follows :—

1. Under the West Bengal Luxury Tax Act, 1994, your petitioner has been assessed for a turnover on which luxury tax is payable at Rs.————

2. Under *sub-section (2) of Section 6/sub-section (1) of Section 9 of the Act a penalty of Rs.————has been imposed on your petitioner.

3. Under sub-section *(5)/(7) of Section 9 of the Act interest for Rs.————has been *determined/re-determined to be payable by your petitioner.

4. The notice of demand issued under sub-section (2) of section 6/ sub-section (1) or sub-section (2) or sub-section (5) of section 9 and received on————is attached hereto.

5. A copy of the order appealed against is attached.

6. Your petitioner has paid all luxury tax assessed and penalty imposed or interest determined under the order appealed against by appropriate treasury challan.

7. Your petitioner's turnover on which luxury tax is leviable, interest payable for the period mentioned above amounted to Rs.————.

8. Such turnover was the whole turnover of your petitioner during the period of assessment. Your petitioner had no other turnover either taxable or otherwise during the said period.

9. Your petitioner has made a return of turnover to the office of———— under section 7 of the Act and has complied with all the terms of the notice served on him by————under section 9 of the Act.

10. Being aggrieved by the afore-mentioned order of————your petitioner begs to prefer the appeal on the following among other.

GROUNDS

(Here enter the grounds on which you rely for the purpose of the appeal)

11. Your petitioner, therefore, prays that he may be assessed accordingly or that he may be declared not to be chargeable to luxury tax or interest under the Act or that the assessment order of determination may be cancelled and/or remanded to————for re-assessment or re-determination or that the order of the————imposing penalty of Rs.———— upon your petitioner may be set aside or that he may be granted such relief or reliefs as may be deemed just and proper.

VERIFICATION

I, ————, the petitioner named in this petition do hereby declare that all luxury tax, interest and penalty admitted to be due in respect of the order of assessment, imposition of penalty or determination of interest appealed against has been paid by Treasury Challan No.————dated————and that what is stated herein is true to the best of my knowledge and belief.

Signature————

Designation————

(Rest of the Forms omitted.)

THE WEST BENGAL LUXURY TAX RULES, 1994

FORM XV

Notice of intimation of modified amount of luxury tax/penalty or interest payable by a stockist

[See rule 18 (3)]

To

……(stockist)

……(address)

With reference to your *appeal/application for review/revision, dated the……day of ……19……, before the *Commercial Tax Officer/Assistant Commissioner/Additional Commissioner of Commercial Taxes/Prescribed authority/Tribunal, you are hereby informed that *interest payable by you under sub-section (1)/(2) of Section 8 *your turnover of stock of luxuries for the purpose of Section 5 for the period commencing on ……and ending on the ……day of……19……has been determined on *appeal/review/revision at Rs……(Rupees……)
(in figures) (in words)
and accordingly tax amounting to Rs ……(Rupees……)
(in figures) (in words)
(1) is payable by you, Further, under sub-section (2) of Section 6/sub-section (1) of Section 9 of the Act you are to pay Rs ……(Rupees
(in figures)
……) (2) penalty.
(in words)

*The amount due (as shown below) should be paid by you before the appropriate Certificate Officer in accordance with the provision of sub-sec-

tion (10) of Section 2 of the Act.

*You are hereby directed to pay the sum of Rs.....(Rupees .....) (as shown below) into the *Reserve Bank of India, Calcutta/ (in words)

Government Treasury at..... on or before (date)..... and to produce the receipt in proof of the payment before the undersigned not later than ..... day of.....failing which the said sum of Rs..... (in figures)

(Rupees.....) will be recoverable from you as an arrear of land (in words)

revenue payable to the Collector.

*You are hereby informed that out of the excess payment (as shown below) amounting to Rs.....(Rupees .....) ; (in figures) (in words)

(i) Rupees ..... (Rupees.....) has been adjusted against (in figures) (in words)

arrears of tax and penalty for the periods as mentioned below :

Serial No.	Period of Assessment	Amount adjusted against arrears Rs.
1.		
2.		
3.		
	Total ;	

(ii) Refund Adjustment Order for Rs.....(Rupees.....) (in figures) (in words

*is enclosed/will be issued afterwards.

	Rs.
1. Tax payable	
2. (a) Penalty under Section 6(2)	
(b) Penalty under Section 9(1)	
Total :	
3. (a) Interest under Section 8(1)	
(b) Interest under Section 8(2)	
Total ;	
Less ; (i) Tax paid	
(ii) Penalty paid	
(iii) Interest paid	
Total ;	
Due ; (i) Tax	
(ii) Penalty	
(iii) Interest	

Excess paid : (i) Tax
(ii) Penalty
(iii) Interest

(Seal)

*Assistant Commissioner/Commercial Tax Officer
.....*(Circle/charge)
Address.....
Dated.....

*Strike out whichever is not applicable.

Published in the Calcutta Gazette, Extraordinary, Part I, dated 21st January, 1994.

FISHERIES DEPARTMENT

No. 132-Fish/C-IV/21-1/94.—*(21st January, 1994).*—Whereas the Governor is of the opinion that it is necessary and expedient to do so for regulation, control and development of inland fisheries and to deal with certain other matters connected therewith, or, incidental thereto ;

Now, therefore, in exercise of the powers conferred by sub section (1), and, in particular, by clauses (d), (h) (i), (ii) and (j) sub-section (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with the Government of India, Ministry of Agriculture (Department of Food), Order No. G.S.R. 316 (E), dated the 20th June, 1972, the Governor is pleased to make the following Order, namely :—

1. **Short title, extent and commencement.**—(1) This Order may be called the West Bengal Fish Producers Licensing Order, 1994.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on the date of its publication in the Official Gazette.

2. **Definitions.**—(i) In this Order, unless the context otherwise requires, "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866 (Ben. Act IV of 1866), together with the suburbs of Calcutta as defined in the notification published under section 1 of the Calcutta Suburban Police Act, 1866 (Ben. Act II of 1866) ;

(ii) "Director" means the Director of Fisheries, Government of West Bengal, and includes Officers, not below the rank of Deputy Director of Fisheries, Government of West Bengal.

(iii) "effective water area" means the area of water including bank, embankment and land appurtenant thereto, used for the purpose of pisciculture either wholly or partly.

(iv) "firm" has the same meaning as the Indian Partnership Act, 1932 (9 of 1932) ;

(v) "fish" means fish of any kind including shell-fish ;

(vi) "fishery" means any activity or occupation or profession connected with rearing, culture, development, conservation, protection, exploitation, utilisation, extension, augmentation or disposal of fish and fish products and fish by products on any place of land whereon water is confined, naturally or artificially, whether periodically or throughout the year, for pisciculture or for fishing, and includes tank fishery, bheri fishery, beel or baor fishery

ox-bow lake fishery, bundh fishery, sewaged fishery and co-operative fishery ;

(viii) "Form" means a form set forth in the Schedule of this Order ;

(ix) "importer" means a dealer who bring fish by normal means of transport into the wholesale market from outside market or from producer direct for the purpose of sale through the wholesalers of the market ;

(x) "licensing authority" means any officer, not below the rank of Assistant Director of Fisheries under the Directorate of Fisheries, Government of West Bengal, having jurisdiction over the area to which this Order extends, and includes such other officer as may be authorised by the State Government by notification to perform all or any of the functions of the licensing authority under this order in such area ;

(xi) "multi-ownership tank" means a reservoir for water held by two or more persons by way of partnership, lease, mortgage or otherwise ;

(xii) "notification" means a notification published in the Official Gazette ;

(xiii) "person" means a Hindu undivided family, company, partnership firm, institution, local authority, fish production group, Gram Panchayat, Panchayat Samiti, Zilla Parishad, Co-operative Society, Municipality, Corporation, Clubs, Association or Body of Persons, whether incorporated or not ;

(xiv) "Prescribed" means prescribed by rules made under this Order ;

(xv) "Producer" means a person whose principal endeavour and object is to bring under pisciculture land or water area intended to grow fish and who actually grows fish for sale wholly or partly to any person including a dealer and a retailer ;

(xvi) "Public Company" has the same meaning as in the Companies Act, 1956 (1 of 1956) ;

(xvii) "Public purpose" means any constructive purpose having or being connected with any of the following objects ;—

(a) adoption, promotion, improvement, extension or development of fishery activities ;

(b) regular and constant supply of fish to meet the demand of the marginal buyer or consumer at the primary level ;

(c) any other object ancillary or incidental to the purpose referred to in sub-clause (a) or sub-clause (b) ;

(xviii) "retailer" means a person who sells or keeps for sale fish either in whole or in pieces or in both for the purpose of consumption by purchaser ;

(xix) "State Government" means the Government of the State of West Bengal ;

(xx) "wholesaler" means a dealer who sells or stores temporarily for sale of fish or auction or otherwise in a wholesale market to any other person including a dealer or a retailer or any authority to sell fish and fish-products either in cash or on credit.

3. **Licence of producers.**—(1) No producer shall, after the expiry of thirty days from the date of promulgation of this Order, liberate fish of any variety or produce fish in a fishery or carry on business as a trader or sell fish to any trader, commission agent, wholesaler and/or any party or person except under and in accordance with the terms and conditions of a licence

issued in this behalf by the licensing authority in Form B.

(2) A separate licence shall be necessary for each fishery of the producer.

4. Issue and renewal of licence.—(1) Every application for issue of a new licence or renewal thereof under this Order shall be made by the producer in Form A to the licensing authority having jurisdiction over his place of fishery and/or business, within November of each year for the purpose of aquaculture in a fishery in the next year, i.e., from January to December of the next year.

(2) The applicant/producer may submit application to the licensing authority by next January of the calendar year on payment of a fine of Rs. 50.00 for each place of fishery and/or business, as the case may be.

(3) The licence shall be valid from January to December of each calendar year. Fresh application may be made for removal of such licence for fishery for the next year.

(4) The following licence fee shall be chargeable for a calendar year in respect of each and separate fishery ;—

(a) for issue of a licence to a producer of brackish water fish in brackish water area in the districts of North 24-Parganas, South 24-Parganas and Midnapore—Rs. 200 per annum per acre of effective water area or part thereof under pisciculture ;

(b) for issue of a licence to a producer of inland fresh water fish of sewage-fed fisheries—Rs. 50 only per annum per acre of water body of sewage-fed fisheries only ;

(c) for renewal of a licence to a producer of brackish water fish in brackish water area of the districts of Midnapore, South 24-Parganas and North 24-Parganas—Rs. 200 per annum per acre or part thereof under pisciculture ;

(d) for renewal of a licence to a producer of inland fresh water fish of sewage-fed fisheries—Rs. 50 only per annum per acre.

(5) No fee shall be charged for renewal of licence of other inland fresh water fishery.

Explanation.—The licence fee shall be payable in cash or by Treasury Challan in the Office of the licensing authority.

(6) The State Government may modify the chargeable licence fee from time to time in the public interest.

5. Power of licensing authority to refuse to grant or renew licence.—(1) The licensing authority may, after giving the concerned producer an opportunity of stating his case in writing and for reasons to be recorded in writing, refuse to grant or renew a licence.

(2) In exercising its power under sub-paragraph (1) the licensing authority shall have due regard to—

(a) the number of licences already issued against potential aquaculture fishery area in inland and estuarine water area under this Order in respect of the locality ;

(b) the availability of fish seed in the locality;

(c) the possibility of erosion and/or damage of public embankment or dykes ;

(d) contravention, if any, of the provisions of this Order, or of any other law for the time being in force relating to an essential commodity ;

(e) any mis-statement of fact that has been wilfully or negligently made in the application for licence or renewal thereof ;

(f) ownership or possession of land in regard to fishery, terms and conditions of lease, agreement, valid registered document, rent receipt, location of land, financial condition of the applicant, quality of water, salinity of the soil and protective dykes ;

(g) such facts and circumstances as may raise reasonable suspicion about the suitability of the applicant for a licence to carry on business in an essential commodity ;

(h) any other relevant fact or circumstances having bearing on the suitability of the applicant for being granted a licence under this Order.

6. **Penalty.**—A contravention of any of the terms or conditions referred to in paragraph 4, subject to which a licence is granted or renewed under this Order, shall, for the purpose of section 7 of the Essential Commodities Act, 1955 (10 of 1955), be deemed to be a contravention of this Order and may accordingly be dealt with.

7. **Suspension and cancellation of licence.**—(1) If any of the terms or conditions subject to which a licence is issued or renewed under this Order, is contravened by the licensee, then, without prejudice to any other action which may be taken against him, his licence may be cancelled or suspended by the licensing authority by an order in writing ;

Provided that no such order cancelling or suspending any licence shall be made under this paragraph unless the licensee has been given an opportunity of showing cause against the proposed cancellation or suspension of his licence.

(2) On cancellation or suspension of a licence under sub-paragraph (1), the licensee shall surrender the same to the licensing authority within seven days from the date of such cancellation or suspension, and shall dispose of fish available with him on such date and in such manner as the licensing authority may direct.

8. **Appeal.**—Any person aggrieved by an order of the licensing authority under paragraph 5 or paragraph 6 or paragraph 7 may, within thirty days from the date of communication of such order, prefer an appeal to the State Government or to such officer, not below the rank of Director of Fisheries, as the State Government may by notification appoint. The appellate authority shall, after giving the appellant a reasonable opportunity of being heard, pass order, either confirming or modifying or annulling the order appealed against.

9. **Power of entry, search, seizure, calling for information etc.**—(1) The licensing authority or any other officer authorised by the licensing authority in this behalf, or any officer not below the rank of Sub-Inspector in the Department of Food and Supplies of the State Government, or any police officer not below the rank of Assistant Sub-Inspector, authorised in writing by the licensing authority in this behalf, with a view to securing compliance with the provisions of this Order or the terms and conditions of the licence, may, with such assistance as may be necessary,—

(a) require the owner, occupier or any other person in charge of any place, premises, vehicle or vessels in which he has reasons to believe that any contravention of the provisions of this Order or of the terms and con-

ditions of any licence issued has been, is being or is about to be committed, to produce any book of accounts or other documents showing the transaction relating to such contravention ;

(b) require any person to give any information in his possession with respect to purchase, sale or storage for sale of fish ;

(c) enter, inspect or break open and search any place or premises, and stop and search any vehicle or vessels in which he has reasons to believe that any contravention of the provisions of this Order or of the terms and conditions of any licence issued thereunder has been or is being or is about to be committed ;

(d) take or cause to be taken extracts from, or copies of, any documents produced before him showing transactions relating to the contravention above-mentioned ;

(e) search, seize and remove stocks of fish together with packages, coverings or receptacles containing such fish and the animals, vehicles, vessels or other conveyances used in carrying the said fish in contravention of the provisions of this Order or of the terms and conditions of the licence issued thereunder and, thereafter, take or authorise the taking of all measures necessary for securing the production of evidence of the stock of fish and of the packages, coverings, receptacles and the animals, vehicles, vessels or other conveyances so seized, before a Court of law and for their safe custody pending such production ;

Provided that in exercising the powers under this paragraph, due regard shall be paid to the social and religious customs of the occupants of the premises, vehicle or vessels.

(2) The provisions of Section 100 of the Code of Criminal Procedure, 1973 (2 of 1974) relating to search and seizure shall, so far as may be practicable or expedient, apply to searches and seizures under this paragraph.

10. Power to exempt in special cases.— If the State Government, having regard to the conditions prevailing in any area, considers it necessary or expedient so to do in the public interest, it may by notification exempt, for such period and subject to such conditions as it may think fit to impose, such class or classes of persons in that area as it may specify in the notification from the operation of all or any of the provisions of this Order.

11. Order not to apply in certain cases.—Nothing in this Order shall apply to—

(a) any State Government or Central Government ;
(b) the Central Fisheries Corporation Limited ;
(c) the State Fisheries Development Corporation Limited ;
(d) the West Bengal Fisheries Corporation.

SCHEDULE

FORM "A"

[Vide Paragraph 4(1)]

Form of Application for Licence under the West Bengal Fish Producers' Licensing Order, 1994

1. Name of the applicant :.....

Note : (If the application is made on behalf of a corporate body, the applicant's/Producer's position vis-a-vis that body should be specifically stated, Person / Firm /Body/Panchayat/Club/Institution, etc.)

2. Name of the applicant's father/husband :.....

payment of which is deferred shall be liable to be paid immediately after the date on which it becomes due for payment. No interest shall be charged on the amount of tax due for payment.

(2) If a registered dealer fails to pay the tax due for payment within the time specified in sub-rule (1) his eligibility certificate shall be cancelled forthwith and he shall cease to avail of the facility of deferment of payment of tax for the remaining period of eligibility, if any.

(3) The amount of tax remaining unpaid after the date specified in sub-rule (1) shall be recoverable in accordance with the provisions of the Act. The defaulting registered dealer shall also to pay interest at the rate of two per cent per month for the period from the date on which the payment of such amount became due to the date of its payment.

6. General conditions in CTD Notification No. A-3-(24) 94-ST-V-(108) dated 6th October, 1994 to apply.— The availnbility of the facility of deferment of payment of tax to a registered dealer under sub-rule (1) of rule 4 shall be subject to the general conditions specified in paragraph 12 of CTD Notification No. A-3-(24)-94 ST-V-(108), dated 6th October, 1994 and the said conditions shall mutatis mutandis apply to a registered dealer availing of the facility of deferment of payment of tax under these rules.

7. Grant of eligibility certificate and procedure therefor.—(1) A registered dealer who establishes new industrial unit or undertakes expansion in his existing industrial unit and is eligible for availing of the facility of deferment of payment of tax under these rules shall make an application in Form A to the General Manager, District Industries Centre. Such application shall be accompanied by a declaration of the applicant in Form B.

(2) The eligibility certificate shall be issued in Form 'C'.

(3) The procedure laid down in Annexure II of CTD Notification No. A-3-(24) 94-ST-V-(108), dated 6th October, 1994 shall apply to the grant of eligibility certificate for the purpose of these rules

8. Returns.—Every Registered dealer eligible to avail of the facility of deferment of payment of tax under rule 3 shall furnish returns in accordance with the provisions of the Act and the Central Act. Such dealer shall indicate in such return the number of the eligibility certificate and other details in support of the non-payment of the tax shown as payable in such returns.

9. Assessment of tax.—The assessment of every dealer for every year of his period of eligibility shall be made in accordance with the provisions of the Act and the Central Act. The assessing authority shall serve on the dealer a demand notice in the form prescribed under the rules for the amount of tax assessed under the order of assessment and indicate therein in accordance with the provisions of sub rule (1) of rule 5 the date by which the tax demanded shall be paid.

10. Contravention of the provisions of the Act and the rules and the general conditions :—(1) If a dealer availing of the facility of deferment of payment of tax contravenes the provisions of these rules the Act and the rules made thereunder of the general conditions referred to in rule 6, the eligibility certificate shall be liable to be cancelled and such certificate shall be cancelled by the issuing authority.

(2) On cancellation of the eligibility certificate the dealer shall be liable to pay the amount of tax in respect of which he has availed of the

facility of deferment of payment of tax, within thirty days of the date of communication of the cancellation order. Any amount of tax remaining unpaid after such date shall be recoverable in accordance with the provisions of the Act.

11. **Non-availability of the facility of deferment of payment of tax to certain registered dealer.**— The facility of deferment of payment of tax under these rules shall not be available to :—

(a) a dealer who is eligible after the 6th May 1994.—

(i) to avail of the facility of deferment of payment of tax under sub-rule (1) of rule 4 of the Madhya Pradesh, Deferment of Payment of Tax Rules, 1986 ; or

(ii) to avail of the facility of exemption from payment of tax under CTD Notification No. A-3-27 89-ST-V (15) dated 19th Feb. 1991, or No. A-3-30-91-ST-V (7), dated 15th January 1992 or No. A-3-14 92-ST-V (30), dated the 3rd June. 1993 ; and

(b) a registerd dealer who establishes any of the new industrial units specified in clause (ii) of Paragraph 2 of the Commercial Tax Department Notification No. A-3-(24)-94-ST-V (108), dated 6th October 1994.

12. **Application of these rules to Central Sales Tax.**—These rules shall mutatis-mutandis apply to the tax levied and collected under the Central Sales Tax Act, 1956 (No. 74 of 1956) and in that application they shall be subject to the modifications that,—

(i) reference to the Central Act shall be construed as a reference to the Central Sales Tax Act, 1956 (No. 74 of 1956) ; and

(ii) reference to the "tax under the Central Act" shall be construed as tax payable under the Central Sales Tax Act, 1956 (No. 74 of 1956).

13. **Construction of certain provisions of the Madhya Pradesh Sales Tax (Central) Rules 1957 :**—The Madhya Pradesh Sales Tax (Central) Rules, 1957 shall be read and construed subject to the provisions of these rules.

FORM 'A'

(See rule 7)

Application for grant of eligibility certificate for availing of the facility of deferment of payment of tax in respect of a new industrial unit/the expansion undertaken in the existing industrial unit under the Madhya Pradesh Deferment of Payment of Tax Rules, 1994.

1. Name and address of the dealer	
2. Constitution of the business of the dealer (whether proprietorship/Partnership/Hindu-Undivided family/Private of Public Limited Company/ Innustrial Co-operative Society (give names of the proprietor, Partners/Managing Directors/Chairman of the society.)	
3. Whether the dealer is a women enterpreneur or he/she belongs to a Schedule Caste/Schedule Tribe/Backward class.	Yes/No. (If yes give particulars of the category to which he/she belongs).
4. Location of the new Industrial unit/existing industrial unit undertaking substantial expansion (village, town tahsil and district with	

category of the district under the Annexure) .....

5. Date of commencement of commercial production in the new industrial unit under the expanded capacity of the existing industrial unit. .....

6. Accounting year (mention period) .....

7. Number and date of the certificate issued by the Commerce and Industries Department of the Government of Madhya Pradesh certifying the Industrial unit to be a small scale/medium scale/ large scale new industrial unit with an investment upto rupees ten lacs or above or that the existing industrial unit has undertaken expansion. .....

8. Number, date of issue and date of validity of the registration certificate issued under the :— .....

(a) M. P. General Sales Tax Act, 1958

(b) Central Sales Tax Act, 1956.

9. Particulars of raw materials, incidental goods for consumption or use in manufacture of goods and of packing material for use in the packing of the manufactured goods. .....

10. Particulars of the principal products waste and by-products with the installed capacity of the principal products manufactured by dealer. .....

11. (a) Capital investment in fixed assets in the new industrial unit/in the expanded capacity of the existing unit upto the date of commercial production .....

(b) Capital investment in fixed assets in the new industrial unit—

(i) from the date of commercial production upto a period of 3 years if it is a medium or large scale new industrial unit with its investment upto that date, upto rupees ten crores. .....

(ii) from the date of commercial production upto a period of 5 years if it is a medium or large scale industrial unit with its investment upto that date is above rupees one hundred crores. .....

[Information about (b) be given after the completion of the said period of 3/5 years].

12. Particulars of existing additional units in Madhya Pradesh owned wholly or partly by the applicants other than the one for which this application is made.

(a) Name and address of the existing additional unit/units.— .....

(b) Location of the industrial unit/units. .....

(c) Registration number, date of issue and date of validity under the—

(i) Madhya Pradesh General Sales Tax Act, 1958. .....

(ii) Central Sales Tax Act, 1956. .....

(d) Names of the principal products waste and by-products manufactured in the unit/these industrial units. .....

13. The original/expanded capacity of the industrial unit is as under :—

(1) .....

(2) .....

(3) .....

14. Any other particulars.—In pursuance of the particulars given above the applicant is eligible to avail of the facility of deferment of payment of tax under item.....of clause (a)*/under clause (b) of sub-rule (1) of rule 4 read with clause (d) of the said sub-rule of the Madhya Pradesh Deferment of Payment of Tax Rules, 1994 and accordingly he/she requests for grant of an eligibility certificate under the said rules.

Date ..... Signature.....

Place .....

*Strike out whichever is not applicable

Note.—(i) If the applicant is an enterpreneur and belongs to a Schedule Caste/Schedule Tribe/Backward class he/she shall attach with the application a certificate issued by the competent amthority for that purpose.

(ii) Copies of the certificate referred to in items 7 and 8 shall be enclosed with the application.

FORM 'B'

(See rule 7)

DECLARATION

*I/We.....holder(s) registration certificate No.....under the Madhya Pradesh General Sales Tax Act, 1956 hereby declare that.—

1. We have established a small scale/medium scale/large scale new industrial unit at ..... situated in .....Tehsil of.....district.

OR

*I/We have established a new industrial unit in the.....growth centre or on land within five kilometres of the boundary of the growth centre due to non-availability of land in the growth centre in.....District.

OR

*I/We have established a new industrial unit in.....of the no industry development block in.....District.

OR

*I/We have undertaken substantial expansion of my/our existing industrial unit.....situated in.....Tehsil of .....district.

OR

*I/We have established a new industrial unit in an area in.....district within the State of Madhya Pradesh declared as a rehabilitation area for persons displaced by submergence on account of large dam.....project.

OR

*Mine/Ours is a new industrial unit established in the cooperative sector with membership of.....person and this unit is established in .....district.

OR

*I/We have established a new industrial unit in.....district which is 100% export oriented unit.

OR

*I/We a/the *non-resident Indian (s) have established * new industrial unit in.....District.

2. *I/We have in many new industrial made capital investment in fixed assets/in plant and machinery of upto rupees 5 lacs/upto rupees ten lacs/exceedings rupees ten lacs/one crore or more. ( )

OR

I/We * have made an additional investment in plant and machinery/in fixed assets, 50% or more of the investment in the existing industrial unit/ rupees one crore or more (.....) /rupees five crore or more in the expanded capacity of the existing industrial unit.

OR

*Mine/ours is a non-resident Indian project with a capital investment of rupees two crores or more (.....) wherein the non-resident Indian(s) investment in 50% or more of the equity invested by the promoters.

3. *I/We have opted for the facility of deferment of payment of tax under the Madhya Pradesh Deferment of Payment of Tax Rules, 1994.

4. *I/We shall maintain a ledger indicating the details of raw material incidental goods and packing material purchased the material and the principal products, by-product and waste product sold for which the deferment of payment of tax is claimed by me/us.

5. *I/We shall furnish an item-wise quantity-wise annual statement of raw materials incidental goods and packing material and production and sales to the General Manager, District Industries Centre and the appropriate Sales Tax Officer within thirty/sixty days of the close of the quarter/ year,

6. *I/We shall keep the industrial unit running during the period of the facility of deferment of payment of tax as also for a period of five years from the date of expiry of the said period.

7. *I/We shall not change the location of the whole or part of the Industrial Unit or effect any substantial contraction or dispose of any substantial part of its total capital investment or effect any change in the ownership during the period of facility or deferment of payment of tax also within a period of five years from the date of expiry of the period of facility of deferment of payment of tax without the prior permission in writing of the Industries Commissioner.

8. *I/We deposit the entire amount of tax (with interest at the rate of 24 percent per annum) for which the facility of deferment of payment of tax has been availed of in case it is found that the eligibility certificate has been issued erroneously or in case any facts have been misrepresented or suppressed by me/us.

9. *I/We do not have any other industrial unit in the State of Madhya Pradesh except the new Industrial unit for which the facility of deferment of payment of tax has been applied for.

OR

*I/We have the following existing industrial units besides this industrial unit in Madhya Pradesh at places noted against each and have availed

of applied for facility as noted against each.

1.
2.
3.
4.

10. *I/We shall permit any officer of the industries and */or Commercial Tax Department to enter into the factory/office premises to carry out any inspection of the factory */office premises, books of accounts etc, and shall furnish to such officer any information required for this purpose.

11. *I/We accept that in the event of any dispute with regard to this facility the matter will be referred to the Government of Madhya Pradesh Commerce and Industries Department whose decision shall be final and binding on *me/us.

Signature of the dealer .....

Witness 1. Signature
(Name and address)

2. Signature
(Name and address)

*Strike out whichever is not applicable.

FORM "C"

Certificate of eligibility for availing of the facility of deferment of payment of tax under the Madhya Pradesh Deferment of payment of Tax Rules, 1994.

This is to certify that..... .....(Name of the dealer) holding registration certificate No.....under the Madhya Pradesh General Sales Tax Act, 1958 and No.....under the Central Sales Tax Act, 1956 has established a new industrial unit under the name and style ....at.....in.....district in Madhya Pradesh*/ has undertaken expansion in his existing industrial unit under the name and style..... situated at..... in .....district is found eligible to avail of the facility of deferment of payment of tax under category.....having opted for such facility under the said rules.

2. The Original/expanded installed capacity of the industrial unit is as under :—

(1) .....
(2) .....
(3) .....

3. The dealer has commenced commercial production on..... He is, therefore, eligible to avail of the aforesaid facility from the date of commencement of commercial production to the extent of the cummulative quantum of tax payable by him under the said Act and the Central Sales Tax Act, 1956 which is..... % of the capital investment in fixed assets, for a period of.....years or for the period upto the date earlier to the date of expiry of the said period of .....years on which he achieve the said cummulative quantum.

OR

In respect of the tax payable by him under the said Act and the Central Sales Tax Act, 1956 during the period commencing from... ....and ending from.....

4. The payment of tax payable by the dealer for each year shall be deferred for a period of five years. The tax payable by the dealer for each year shall be paid by him as indicated below ;—

S. No.	Year	Year of deposits
(1)	(2)	(3)

5. The dealer is eligible to avail of the facility of deferment of payment of tax payable by him under Section 7 of the Madhya Pradesh General Sales Tax Act, 1958 in respect of the goods specified below intended for consumption use by him as raw material or for use as incidental goods in the manufacture of other goods or for use in the packing of manufactured goods and such raw materials and incidental goods are specified as such in his registration certificate under the said Act.

1. Raw materials .....
2. Incidental goods .....
3. Packing material .....

6. The dealer shall manufacture in the new industrial unit*/in the extended capacity of the industrial unit the following products.

1. Principal Product, ...
2. By-product .....
3. Waste products .....

The eligibility certificate is subject to the general conditions specified in paragraph 13 of Commercial Taxes Department Notification No. A-3 (24)-94-ST-V (108) dated the 6th October 1994 and shall be liable to be cancelled for breach of any of those conditions and the contravention of the provisions of the Madhya Pradesh Deferment of Tax Rules, 1993, the Madhya Pradesh General Sales Tax Act, 1958 and the Central Sales Tax Act, 1956 and the rules made thereunder.

.....
Signature
General Manager/Industries Commissioner
District Industries, Madhya Pradesh
Centre.....

Seal

Place.....
Date.....

*Strike out whichever is not applicable.

FORM D
Certificate

Certified that M/s.....had applied on.....(date) for allotment of land measuring.....in the.....growth centre in.....district for their proposed.....new industrial unit, but the land measuring .....as required by them was not available in.....growth centre in.....district.

Certified further that the new industrial unit established by M/s..... .....in.....(village)..... (Tehsil).....(district).....is situated on land within five kilometers of the boundary of the..... growth centre.

.....
Signature
Managing Director
Madhya Pradesh Audyogik Kendra Vikas Nigam.....

ANNEXURE
(omitted,)

THE WAKF (MADHYA PRADESH AMENDMENNT) ACT, 1994

The following Act received the assent of the President on the 4th January, 1995 and was published in the "Madhya Pradesh Gazette, (Extraordinary)", dated 5th January, 1995.

MADHYA PRADESH ACT NO, 1 OF 1995

An Act to amend the Wakf Act, 1954, in its application to the State of Madhya Pradesh.

Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follows ;—

1. **Short title.**—This Act may be called the Wakf (Madhya Pradesh Amendment) Act, 1994.

2. **Amendment of Central Act No. 29 of 1954 in its application to the State of Madhya Pradesh.**—The Wakf Act, 1954 (No. 29 of 1954) (hereinafter referred to as the principal Act) in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided.

3. **Amendment of Section 3.**—For clause (kb) of Section 3 of the principal Act, the following clause shall be substituted, namely ;—

"(kb) "Tribunal" in relation to any area, means the Tribunal, constituted under sub-section (1) of Section 55, having jurisdiction in relation to that area.".

4. **Amendment of Section 6.**—For sub-section (5) of Section 6 of the principal Act, the following sub-section shall be substituted, namely :—

"(5) On and from the commencement of the Wakf (Madhya Pradesh Amendment) Act, 1994, no suit or other legal proceeding shall be instituted or commenced in civil court in relation to any question referred to in sub-section 1.".

5. **Substitution of new Section for Section 6-A.**—For Section 6-A of the principal Act, the following Section shall be substituted, namely : -

"6-A. **Power of tribunal to determine dispute regarding Wakf.**—(1) If after the commencement of the Wakf (Madhya Pradesh Amendment) Act, 1994 any question arises whether a particular property specified as Wakf property in a list of Wakf published under sub-section (2) of Section 5 is Wakf property or not, or whether a Wakf specified in such list is a Shia Wakf or a Sunni Wakf, the Board or the mutawalli of the Wakf, or any person interested therein may apply to the Tribunal having jurisdiction in

Orissa which shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act and the Rules, to acquire, take over, hold and dispose of property and shall, by the said name, sue and be sued.

(2) The Sports Authority shall consist of the following members, namely ;—

(a) a Chairman to be appointed by the Government ;

(b) the Secretary to Government in the Sports and Youth Services Department, who shall be the Vice-Chairman ;

(c) the Managing Director ;

(d) two members of the Orissa Legislative Assembly having sports background, to be elected by the Assembly from amongst its members in the prescribed manner ;

Provided that whenever vacancies arise in offices specified in sub-clause (d) of the above clause due to dissolution of Orissa Legislative Assembly, the State Government may fill up the said vacancies by nominating two persons who shall, unless sooner removed, hold office till the date on which the names of the members elected under the said clause by the Assembly after the reconstitution are published in the Gazette and the term of office of the members so elected shall be co-termious with the term of office of the members nominated under sub-clause (d) ;

(e) an Officer belonging to the Orissa Finance Service may be nominated by the Government, who had be the Member, Finance ;

(f) the Director, Higher Education, Orissa ;

(g) the Director, Secondary Education, Orissa ;

(h) the Director, Elementary Education, Orissa ;

(i) the Director-General and Inspector-General of Police, Orissa ;

(j) Deputy Director-General, National Cadet Corps, Orissa ;

(k) eight other members, of whom two shall be women, one Scheduled Caste and one Scheduled Tribe member to be appointed by the Government from among—

(i) the outstanding sports persons who participate atleast at the national level in any discipline of sports and games ;

(ii) persons who have rendered valuable service for promotion of sports and games in the State ; and

(iii) office bearers of the State Sports Associations.

4. **Powers and functions of Sports Authority.**—The Sports Authority shall be the principal policy formulating body relating to sports and games and youth activities and shall have the following powers and functions, namely ;—

(a) approve the sports Calendar of the State ;

(b) accord administrative and financial sanctions for construction and maintenance of Stadia, Indoor Stadia, Swimming pools, Play Fields and other sports infrastructure and the like in the State ;

(c) approve the proposals received from the District Authority for construction of sports infrastructure and the like in the District and forward the same to the State Government, Government of India and Sports Authority of India, as the case may be, for sanction of grants under relevant schemes ;

(d) implement the sports programmes of the Government of India,

Sports Authority of India and the Netaji Subhas National Institute of Sports, Patiala and the State Government ;

(e) accord administrative and financial sanctions for the creation of posts in the Sports Authority and the District Authority ;

(f) approve budget estimates of the Sports Authority ;

(g) promote youth activities and other matters related and incidental thereto, draw up and implement plans in keeping with the policy of sports, games and youth activities, Youth Welfare Policy of Government of Orissa and Government of India ;

(h) raise finances by leasing out the property owned by or vested in it in the manner prescribed ;

(i) augment the income of the Sports Authority by conducting tournaments, matches and other sports events and adventurous activities and arranging sale of tickets, receipts of donations, etc.. in connection therewith ;

(j) accept endowments, bequests, donations, trophies, grants and transfer of any movable and immovable properties made over to the Sports Authority ;

(k) take steps for the welfare of the sports persons, sports officials and the like and to run benevolent schemes for active, veteran and retired sports persons and officials ;

(l) co-ordinate and supervise all games, sports, physical education and youth activities implemented by the State Level and District Level bodies and disciplinewise State Level Sports Associations affiliated to the All India bodies like Orissa Olympic Association, Orissa Cricket Association, Orissa Football Association, Orissa Amateur Atheletic Association and Orissa Lawn Tennis Association and to ensure that the funds allotted to these institutions for promotions of sports, games, physical education and youth activities are properly utilised ;

(m) provide for education, training and coaching in various games, sports and youth activities and, for that purpose, establish, manage and administer institutions fully or partly ;

(n) approve and present the audited statement or accounts and utilisation certificates of the Sports Authority to the Government ;

(o) approve the audited statement of accounts of all District Authorities and submit the same to the Government together with utilisation certificates ;

(p) audit the accounts of District and State Level Associations and Institutions receiving grants from the Government and submit reports to the Government regarding their activities and proper utilisation of funds ;

(q) take over all or any sports infrastructures for which land has been allotted or funds have been provided by the Government partly or fully ;

(r) exercise such other powers and perform such other functions as may be conferred on it by the Government from time to time.

5. **Salaries and allowances and other conditions of service of Chairman and allowances of members.**- (1) The Chairman of the Sports Authority shall be entitled to such salary and allowances as may be prescribed.

(2) Other members of the Sports Authority shall be entitled to such allowances as may be prescribed from time to time

6. **Managing Director and powers and functions.**—(1) There shall be

a Managing Director of the Sports Authority to be appointed by the Government from among the officers belonging to the State or the Central Government or the Defence Service, who are eligible to be appointed as an Additional Secretary or a Secretary to the Government.

(2) The Managing Director shall be the Chief Executive of the Sports Authority and shall exercise the following powers and perform the following functions, namely :—

(i) implement all the programmes of the Sports Authority ;

(ii) exercise general supervision and control over the Sports Officers, Office Staff, Coaches, Superintendents of Sports Hostels or any other employee of the State Authority and District Authorities ;

(iii) exercise administrative control over all the Sports Hostels and other institutions of games, sports, youth activities ;

(iv) deal with all the administrative matters pertaining to appointment, postings, transfers, promotion and disciplinary actions of the staff of the Sports Authority and District Authorities ;

(v) run the day-to-day administration of the Sports Authority and conduct all its financial and administrative transactions ;

(vi) be the custodian of the finances of the Sports Authority ;

(vii) prepare and present the audited statement of accounts, utilisation certificates to the Sports Authority for its approval ;

(viii) recommend administrative and financial sanctions for the creation of the posts of officers and other employees for the performance of the functions of the Sports Authority and District Authorities.

7. **Review of progress and performance.**— The Sports Authority shall review, in its meeting, atleast once a year, the progress and performance of the Authority and give such policy directions to the Managing Director and the District Authorities, as it may deem fit.

8. **Powers of the Chairman.**— (1) The Chairman or, in his absence, the Vice-Chairman shall preside over the general body meetings of the Sports Authority.

(2) The Chairman shall be the appellate authority in respect of orders passed by the Managing Director and shall have powers to call for any information, document and data pertaining to the Sports Authority.

(3) The Chairman shall be competent to appoint any Committee to enquire into, and report on, the affairs of the Sports Authority and all State Level Associations who receive grants from Government, proper maintenance and up-keep of infrastructure partly or wholly funded by the Government, and to pass such orders thereon as he may consider proper.

(4) The Chairman may direct convening of the meetings of the Sports Authority for any purpose.

9. **Delegation of powers by Chairman.**—The Chairman may, in writing, delegate such of his powers as he may consider necessary to the Vice-Chairman.

10. **Powers of Vice-Chairman.** In addition to the powers delegated by the Chairman and other powers conferred under this Act, the Vice-Chairman shall exercise the following powers, namely :—

(i) preside over all meetings of the Selection Committee to be constituted for appointment, whether by promotion or selection, to posts of Junior Coaches, Junior Sports Managers, Junior Physical Education Teachers

and such other posts of the Sports Authority as may be decided by the Authority ;

(ii) co-ordinate the activities of the Sports Authority in relation to the Departments of the Government.

CHAPTER III

District Sports Authority

11. **Constitution of District Sports Authority.**—(1) The Government shall, by Notification, constitute an authority for each District to be called District Sports Authority.

(2) The District Authority shall consist of the following members, namely ;—

(a) Collector of the District, who shall be the Chairman, Ex-officio ;

(b) Superintendent of Police of the District, who shall be the Vice-Chairman, Ex-officio ;

(c) Inspector of Physical Education of Education Circle of the District, Member Ex officio ;

(d) Executive Engineer, Road and Buildings or Executive Engineer, Rural Development to be nominated by the Chairman of the District Authority. Member Ex officio ;

(e) the District Sports Officer appointed under Section 12, who shall be the Member Secretary ;

(f) a teacher to be nominated by the Government from among the Physical Education Teachers in the District ;

(g) four other Members, of whom, one shall be appointed by the Sports Authority from among the outstanding sports persons who participated in the national competitions, persons who have rendered valuable service for the promotion of sports and games in the District and reigning champions at the national level tournaments, and the remaining three including one woman shall be nominated by the Government.

12. **District Sports Officer.**—There shall be a District Sports Officer of every District Authority who shall be appointed by the Sports Authority in the manner prescribed.

13. **Functions of the District Authority.**—The District Authority shall perform the following functions, namely ;—

(i) approve the Sports Calendar of the District ;

(ii) approve the proposal for construction of Stadia, Indoor Stadia, Swimming pools, Play Fields and the like in the District and to obtain the administrative and financial sanctions from the Sports Authority ;

(iii) approve the budget estimates and the revised estimates of the District Authority ;

(iv) raise finances by leasing out the properties owned by, or vested in, it in the manner prescribed ;

(v) augment the income of the District Authority by conducting tournaments, matches and other sports events and arranging the sale of tickets in connection therewith ;

(vi) accept endowments, bequests, donations, trophies, grants and transfer of any movable and immovable properties made over to the District Authority ;

(vii) promote and organise indigenous sports, women sports, rural sports, tribal sports, children sports, adventure sports and the like at the

District level ;

(viii) promote and organise major games and sports which have National and International importance at the District level and arrange to send the District teams for State level events to be conducted by the Sports Authority ;

(ix) implement the various sports programmes of the Sports Authority of India, Netaji Subhas National Institute of Sports, Patiala and the like which are allotted to the District ;

(x) approve and present the audited statements of accounts and utilisation certificates to the Sports Authority ;

(xi) co-ordinate all games, sports and physical education activities in all educational institutions and District Level Associations whether or not they are receiving grants from Government and ensure that the funds allotted to these institutions and associations for the promotion of games, sports and physical education are properly utilised ;

(xii) exercise such other powers and perform such other functions as may be conferred upon, or entrusted to, it by or under this Act.

14. Powers and Functions of Member-Secretary of the District Authority.—The Member-Secretary shall be the Chief Executive of the District Authority and he shall exercise the following powers and perform the following functions, namely ;—

(i) implement all the programmes of the District Authority ;

(ii) exercise general supervision and administrative control over the District Sports Officer, Coaches, field and other staff working under the administrative control of the District Authority, subject to general supervision of the Chairman of the District Authority and the Managing Director of the Sports Authority ;

(iii) run the day-to-day administration of the District Authority and conduct all its financial and administrative transactions ;

(iv) work under the general supervision and administrative control of the Chairman of the District Authority and Managing Director of the Sports Authority ;

(v) prepare and present the audited statement of accounts and utilisation certificates to the District Authority for its approval ;

(vi) convene the meetings of the District Authority from time to time as may be decided by the Chairman of the District Authority.

CHAPTER IV
Miscellaneous

15. Term of office of members and procedure and conduct of its meeting.—(1) The term of office of the State Sports Authority and the District Sports Authority shall be four years from the date of publication of their names in the Gazette.

(2) When any vacancy occurs in the office of a member due to death, resignation or otherwise, such vacancy shall be filled up by fresh nominations, election or appointment, as the case may be, and the person so nominated, elected or appointed shall continue for the un-expired portion of the term of the member in whose place, he is so nominated, elected or appointed.

(3) The procedure to be followed at the meetings of the State Sports Authority and District Sports Authority shall be such as may be prescribed,

16. **Transfer of certain institution.**—The Government may, at any time after the commencement of this Act, transfer to the Sports Authority the properties and functions of the existing State Sports Council, the powers and functions of the Directorate of Sports and Youth Services, alongwith the staff, as it may deem proper ;

Provided that in the event of the Government transferring the staff as aforesaid, the conditions of service of such staff as on the date immediately preceding the date of such transfer shall not be varied to their disadvantage.

17. **Authentication of orders, etc.**—All the orders and decisions of the Sports Authority and the District Authority shall respectively be authenticated by the signature of the Managing Director and the Member-Secretary, respectively.

18. **Sports Authority to function under the general supervision of Government.**—The Sports Authority shall function under the general supervision of the Government and the Government shall have powers to give such directions as it may deem fit from time to time and shall also review the action of the Sports Authority.

19. **Funds of the Sports Authority.**—The Sports Authority and the District Authority each shall have its own funds consisting of :—

(a) the grants made by the State Government and the Central Government ;

(b) all moneys received by or on its behalf under the provisions of this Act or any other law for the time being in force or under any other contract ;

(c) all proceeds of the disposal of property by or on its behalf ;

(d) all rents accruing from any of its properties ;

(e) all moneys received by or on its behalf from any local authority, public corporation, public or private companies, public and philanthropists or persons by way of grants, endowments, trusts, gifts or deposits or in any form ;

(f) all interests and profits arising from any investment or transaction in connection with any money belonging to it ;

(g) proceeds from tournaments conducted by it and collection of fees for coaching in various sports activities.

20. **Powers of authorities to borrow.**—The Sports Authority may, from time to time, with the previous sanction of the Government and subject to the provisions of this Act and to such conditions as may be prescribed, borrow any sum required for the purposes of this Act

21. **Guarantee of loans.**—The Government may guarantee in such manner as they think fit the payment of the principal and interest of any loan proposed to be raised by the Sports Authority or any District Authority.

22. **Accounts and audit.**—(1) Every Authority under this Act shall cause proper accounts and other records in relation thereto to be kept, including the proper system of internal check, and prepare an annual statement of accounts, including the income and expenditure account and the balance sheet, in such form as may be prescribed by regulations.

(2) The accounts of every Authority under this Act shall be audited by such persons as may be appointed by the Government and any

expenditure incurred in connection with such audit shall be payable by the concerned Authority to the Government.

23. **Inspection and control.**—(1) The Government shall have the right to cause an inspection to be made by such person or persons as they may direct to the affairs and properties of the Sports Authority or any District Authority, its building, stadia, indoor stadia, swimming pools, play-fields and the site and also to cause an enquiry to be made into the matters connected with the said Authorities.

(2) In every case of such inspection or enquiry, the Government shall give notice to the concerned Authority of their intention to cause such inspection or enquiry to be made and the concerned authority shall be entitled to be represented thereat.

24. **Recruitment of officers and employees and their conditions of service.**—Save as otherwise provided in this Act, the recruitment and conditions of service of the officers and the employees of the Sports Authority and District Authority shall be such as may be prescribed.

25. **Power to make Rules.**—The Government may, by Notification make Rules for carrying out all or any of the purposes of this Act.

26. **Power to make Regulations.**—The Sports Authority may, with the previous approval of the Government, make Regulations not inconsistent with the provisions of this Act and the Rules to provide for all or any of the following matters, namely :—

(a) the administration of the funds and other provisions of the Authorities under this Act and the maintenance of their accounts ;

(b) the duties of officers and employees of the Authorities ;

(c) the procedure to be followed by the Authorities in writing, considering and accepting tenders ;

(d) supervision and guidance of the activities of all Sports Associations, Sports Councils and other Sports Bodies within the State so as to ensure excellence in sports and games in conformity with the National Sports Policy and the State Sports Policy and guidelines relating thereto ; and

(e) any other matter arising out of the functions of the Authorities under this Act, in which it is necessary or expedient to make Regulations.

27. **Power to remove doubts and difficulties.**—If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act or the Rules, which appears to them necessary for the purpose of removing the doubt or difficulty :

Provided that no order shall be issued under this section after the expiry of two years from the date of commencement of this Act.

Published in the Orissa Gazette, Extraordinary, dated 1st July, 1994.

THE ORISSA LAND REFORMS (AMENDMENT) ACT, 1993
ORISSA ACT 12 OF 1994

An Act further to amend the Orissa Land Reforms Act, 1960.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Orissa Land Reforms (Amendment) Act, 1993.

2. Amendment of section 2.—In the Orissa Land Reforms Act, 16 of 1960 (hereinafter referred to as the principal Act), in section 2, after clause (3), the following clause shall be inserted, namely :—

"(3-a) "authorised officer" means an officer appointed as such by the State Government for the purposes of section 8A ;".

3. Insertion of new section 8-A.— In the principal Act, after section 8, the following section shall be inserted, namely :—

"**8-A. Conversion of agricultural land for purposes other than agriculture.**— (1) Notwithstanding anything contained in section 8,—

(a) the authorised officer may, where an application is made to him by a raiyat in the prescribed form for conversion of the use of any agricultural land belonging to him for purposes other than agriculture, allow such conversion, if he is satisfied that such conversion shall not violate—

(i) any Master plan, improvement scheme, development plan or town planning scheme, made or published under the Orissa Town Planning Improvement Trust Act, 1956 (Orissa Act 18 of 1957) or under the Orissa Development Authorities Act, 14 of 1982 or under any law for the time being in force and applicable to such land ; and

(ii) any other condition or conditions as may be prescribed for the purpose of dealing with bona fide cases of such conversions ;

(b) in every case where the authorised officer allows conversion of the use of any agricultural land under clause (a), the raiyat shall be deemed to have surrendered his raiyati-right in respect of the land in favour of the Government and thereafter the land shall be settled on lease basis, on such terms and conditions as may be prescribed, with the person whose raiyati-rights is so deemed to have been surrendered, subject to, and with effect from the date of payment by him in the prescribed manner the premium for such land calculated at the rate specified in sub-section (3), and every such settlement shall be deemed to have been made under the Orissa Government Land Settlement Act, 33 of 1962 ;

(c) where the conversion of the use of any agricultural land by a raiyat for purposes other than agriculture has been made prior to the commencement of the Orissa Land Reforms (Amendment) Act, 1993, it shall be deemed that the raiyat has surrendered his raiyati-right in respect of that land in favour of the Government and, in every such case, the land shall be deemed to have been settled, on lease basis under the Orissa Government Land Settlement Act, 33 of 1962, with the person whose raiyati-right is so deemed to have been surrendered or, where the land has been transferred by the raiyat to any other person prior to such commencement, with the transferee, and the person, with whom the land shall be so deemed to have been settled, shall pay, within such period and in such manner, a premium in respect of that land calculated at the rate equivalent to fifty percentum of the rate of premium specified against that category of land in sub section (3) ;

Provided that if the premium so payable is not paid within the prescribed period it shall be recoverable as an arrear of land revenue.

(2) The order of the authorised officer under clause (a) of sub section (1) shall be final :

Provided that no order refusing to allow any conversion under the said clause shall be made unless the concerned raiyat has been given an opportu-

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Statement about ownership and other particulars about newspaper THE CURRENT INDIAN STATUTES required to be published under rule 8 of the Registration of Newspaper (Central) Rules, 1956.

FORM IV

(*See* Rule 8)

1.	Place of Publication	...	36, Sector 9A, Chandigarh
2.	Periodicity of its Publication	...	Monthly on 11th of each month.
3.	Printer's name	...	Deepak Suri
	Nationality	...	Indian
	Address	...	36, Sector 9-A, Chandigarh.
4.	Publisher's name	...	Deepak Suri
	Nationality	...	Indian
	Address	...	36, Sector 9-A, Chandigarh.
5.	Editor's name	...	Lalit Mohan Suri
	Nationality	...	Indian
	Address	...	36, Sector 9-A, Chandigarh.

6. Name and addresses of individual who own the newspaper and of shareholder holding more than one per cent of the total : Deepak Suri, and L. M. Suri & Sons (H U.F.) 36, Sector 9-A, Chandigarh.

I, Deepak Suri hereby declare that the particulars given above are true to the best of my knowledge and belief.

Dated : 11th March, 1995. **Deepak Suri**

1. This Order may be called the Maharashtra Gur Manufacturers' Licensing (Amendment) Order, 1994.

2. In clause 2 of the Maharashtra Gur Manufacturers' Licensing Order, 1979 (hereinafter referred to as "the principal Order"), for sub-clause (d), the following shall be substituted, namely :—

"(d) "Licensing Authority" means the Regional Joint Director of Sugar or such other officer not below the rank of the Deputy Director of Sugar, as may be authorised by him in this behalf."

3. In clause 8 of the principal Order,—

(a) in sub-clause (1), for the words "Director of Sugar" the words "Commissioner of Sugar" shall be substituted ;

(b) in sub-clause (3), for the words "Director of Sugar", the words "Commissioner of Sugar" shall be substituted.

4. In clause 9 of the principal Order, in sub-clause (1) after the words "Assistant Registrar of Co-operative Societies", the words "or the Assistant Director of Sugar" shall be added.

5. In form 'B' appended to the principal Order, in para 9 for the words "Director of Sugar", the words "Commissioner of Sugar" shall be substituted.

Published in the Maharashtra Government Gazette, Extraordinary, Part IV-Aa, dated October 26, 1994.

HOME DEPARTMENT

No. MVA. 0589/CR-1029/TRA-2.—(*Mantralaya, Bombay 400 032, dated the 26th October, 1994*).—In exercise of the powers conferred by sub-section (1) and clauses (i) and (j) of sub-section (2) of section 138 of the Motor Vehicles Act, 1988 (59 of 1988) and of all other powers enabling it in this behalf, the Government of Maharashtra hereby makes the following rules further to amend the Maharashtra Motor Vehicles Rules, 1989 the same having been previously published as required by sub-section (1) of section 212 of the said Act, namely :—

1. These rules may be called the Maharashtra Motor Vehicles (Fifth Amendment) Rules, 1994.

2. In rule 92 of the Maharashtra Motor Vehicles Rules, 1989 in sub-rule (1), for clause (ii-a), the following clause shall be substituted, namely :—

"(ii-a) detain the vehicle if parked in no parking zone, by applying wheel clamps in order to initiate proceedings ; and".

Published in the Maharashtra Government Gazette, Extraordinary, Part IV-Aa, dated November 7, 1994

FOOD AND CIVIL SUPPLIES DEPARTMENT

No. LVV 1390/1490/CR-29/CR-1265.—(*Mantralaya Annexe, Bombay 400 032, dated the 7th November 1994*).—In exercise of the powers conferred by sub-sections (1) and (2) of section 3 of the Essential Commodities Act, 1955 (10 of 1955) read with the Government of India, Ministry of Agriculture (Department of Food), Order No. GSR-452 (E), dated the 25th October, 1972 and the Government of India, Ministry of Agriculture and Irrigation (Department of Food) Order No. GSR-800, dated the 9th June, 1978 and with the concurrence of Government of India, the Governor of

Maharashtra hereby makes the following order further to amend the Maharashtra Rice (Levy on Rice Millers) Order, 1989, namely :—

1. (1) This Order may be called the Maharashtra Rice (Levy on Rice Millers) (Third Amendment) Order, 1995.

(2) It shall come into force with effect from the 1st October, 1994.

2. In the Maharashtra Rice (Levy on Rice Millers) Order, 1989, for the existing Schedule "II", the following shall be substituted, namely :—

SCHEDULE "II"

(See clauses 2 (f) and 4)

Levy Prices of Rice

Serial No. (1)		Classification of rice (Price per quintal)	
		Raw Rice (2)	Par-boiled Rice (3)
		Rs. Ps.	Rs. Ps.
1. Common	...	546.30	548.90
2. Fine	...	576.60	578.60
3. Superfine	...	608.15	608.85

Note.—The above prices are inclusive of Octroi charges and Mandi charges at paddy stage and depreciation of gunny for packing paddy but inclusive of gunny charges for rice.

Published in the Gujarat Government Gazette, Extraordinary, Part IV-A, dated December 31, 1994.

HOME DEPARTMENT

No. G/G/94/173/MVA/5/OD. 8/KH.—(*Sachivalaya, Gandhinagar, 31st December, 1994*)—In exercise of the powers conferred by section 165 of the Motor Vehicles Act, 1988 and in supersession of Government Notification Home Department No. G/G/78/85/MVA/4577/7865/E, dated 17th April, 1978, the Government of Gujarat hereby,

(1) Constitutes Motor Accident Claims Tribunal to be known as—

(i) Motor Accident Claims Tribunal (Main) and

(ii) Motor Accident Claims Tribunal (Auxiliary)

for each of the Judicial Districts of constituted under the Bombay Civil Courts Act, 1869 (hereinafter referred to as "Civil Courts Act") and for the areas of the city of Ahmedabad as defined in clause (2) of section 2 of the Ahmedabad City Courts Act, 1961 ;

for the purposes of adjudicating upon claims for compensation in respect of accident involving the death of, or bodily injury to persons arising out of the use of motor vehicles or damages to any property of a third party so arising, or both ; and

(2) appoints—

(a) The District Judge of the district to be the sole member of the Motor Accident Claims Tribunal (Main).

(b) All Joint District Judges and All Assistant Judges each of the district to be the member of Motor Accident Claims Tribunal (Auxiliary).

(c) The Principal Judge, City Civil Court, Ahmedabad will be the

sole member of the Motor Accident Claims Tribunal (Main).

(d) Other Judges of the City Civil Court, Ahmedabad to be sole members of the Motor Accident Claims Tribunal (Auxiliary).

(3) directs that—

(a) (i) the Claims Tribunal (Main) consisting of the District Judge shall adjudicate upon claims for compensation in respect of accidents occurring in the areas or in the entire District in which they are posted ;

(ii) The Claim Tribunal (Auxiliary) consisting of Joint District Judges and Assistant Judges shall adjudicate upon claims of compensation in respect of the accidents occurring in areas in which they are posted.

(iii) The Claims Tribunals (Main) and the Claims Tribunal (Auxiliary) for the areas of city of Ahmedabad shall adjudicate upon claims for compensation in respect of the accident occurring in area of city of Ahmedabad ;

Provided that each of the Claims Tribunal (Main) shall decide as to the cases to be tried by it and those to be tried by the corresponding Claims Tribunals (Auxiliary).

(iv) All the Motor Accident Claims Tribunals shall adjudicate upon a claim for compensation for any amount ;

(v) Where more than one application for compensation arising out of an accident are made to more than one Tribunal all such applications shall be transferred to and adjudicated upon by the Claims Tribunal (Main).

Published in the Gujarat Government Gazette, Extraordinary, Part IV-A, dated December 8, 1994.

LEGAL DEPARTMENT

No. GK/24/94/ARB/1992/340/L.—(*Sachivalaya, Gandhinagar, 9th December, 1994*) — In exercise of the powers conferred by sub-sections (1) and (2) of section 3 of the Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 (Guj. 4 of 1992) the Government of Gujarat hereby ;—

(1) establishes with effect from the 1st January, 1994 a Tribunal to be called the Gujarat Public Works Contracts Disputes Arbitration Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

(2) appoints the member as under with effect on and from the 1st January, 1994. He shall be deemed to be appointed from the date on which the charge of the office is assumed by him.

(i) Shri M.G. Raichur, Member.
Retired Chief Engineer.

3. The member of the said Tribunal shall hold office for a term specified in sub-section (1) of section 4 of the said Act.

— —

Published in the Gujarat Government Gazette, Extraordinary, Part IV-A, dated November 21, 1994.

HOME DEPARTMENT

No. G/G/52/9[illegible]/MVR/1092 534 K.H.—(*Sachivalaya, Gandhinagar, 21st November 1994*).- Whereas certain draft rules further to amend the Gujarat Motor Vehicles Rules 1959 were published as required under sub-section (1) of section 212 of the Motor Vehicles Act, 1988 (59 of 1988), at page

128 of the Gujarat Government Gazette, Part IV-A, dated the 22nd July, 1993 under the Government Notification, Home Department No. 1 G/G/77/93/MVR/1092/534/KH, dated the 30th June, 1993, inviting objections and suggestions from all persons likely to be affected thereby till the 29th July, 1993 ;

And whereas, no objections or suggestions have been received by the Government ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 111 of the Motor Vehicles Act, 1988 (59 of 1988) and all other powers enabling it in this behalf, the Government of Gujarat hereby makes the following rules further to amend the Gujarat Motor Vehicles Rules, 1989, namely :—

1. These rules may be called the Gujarat Motor Vehicles (Amendment) Rules, 1994.

2. In the Gujarat Motor Vehicles Rule, 1989, in rule 166, for sub-rule (10), the following shall be substituted, namely :—

"(10) The maximum fee which may be charged by the Testing Institute for such checking of design should be notified from time to time. The fees shall be decided by the Testing Institute in consultation with the State Government once in every three years. The fees as decided and notified shall be paid by the applicant to the testing Institute on demand by it and the same shall not be refunded.".

Published in the Gujarat Government Gazette Extraordinary, Part IV-A, dated January 3, 1995.

FOOD & CIVIL SUPPLIES DEPARTMENT

No. GSR GTH/95/4/CPA/1287/1408/D.—(*Sachivalaya, Gandhinagar, 3rd January, 1995*).—In exercise of the powers conferred by sub-section (2) of section 30 of the Consumer Protection Act, 1986 (68 of 1986), the Government of Gujarat hereby makes the following rules further to amend the Gujarat Consumer Protection Rules, 1988, namely :—

1. These rules may be called the Gujarat Consumer Protection Rules, 1995.

2. In the Gujarat Consumer Protection Rules, 1988, in rule 3, in sub-rule (5), after clause (e), the following shall be added, namely :—

"(f) has absented himself from three consecutive sitting of the District Forum without reasonable cause."

Published in the Gujarat Government Gazette Extraordinary, Part IV-A dated December 1, 1994.

FOOD AND CIVIL SUPPLY DEPARTMENT

No. GTH-94 74-DGP-1994-GOI-48 C (*Sachivalaya, Gandhinagar, 1st December, 1994*) – In exercise of the powers conferred by Section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with the Order of the Government of India, Ministry of Agriculture (Department of Food), No. GSR 800 dated the 9th June, 1978 and with the prior concurrence of the Central Government, the Government of Gujarat hereby makes the following order to amend the Gujarat Rice Procurement (Levy) Order, 1994, namely :—

1. (i) This order may be called the Gujarat Rice Procurement (Levy) (Amendment) Order, 1994.

(ii) It shall come into force from 1st November, 1994.

2. In the Gujarat Rice Procurement (Levy) Order 1984 (hereinafter referred to as the said order) in clause 2, in sub-clause (g) (I) ;

(a) in paragraph (i) in sub-paragraph (a) and (b) for the words "Two hundred and ten rupees and Sixty paise", the words "Four hundred eighty four & paise forty five" shall be substituted.

(b) in paragraph (ii) in sub-paragraph (a) and (b) for the words "Two hundred & Sixteen rupees & paise forty" the words "Five hundred & thirteen & paise eighty" shall be substituted.

(c) in paragraph (iii) in sub-paragraph (a) and (b) for the words "Two hundred twenty two rupees & fifteen paise", the words "Five hundred forty three rupees & paise fifteen" shall be substituted.

3. In the said order in clause 3 in sub-clause (1),—

In paragraph (a) for the words "five percent" the words "Four percent" shall be substituted.

3.A. In the Gujarat Rice Procurement (Levy) (Amendment) Order, 1986, in paragraph 2(2) (f) for the figures, letters and words "15th October, 1986", the words "15th October, 1995" shall be substituted.

4. In the said order in clause 11, for sub-clause (2), the following shall be substituted, namely ;—

"(2) Every miller shall furnish a true return duly signed by him for every fortnight in the third schedule so as to reach the Director of Food, Sachivalaya, Gandhinagar, and the Collector, of the District or the Food and Civil Supplies Controller, Ahmedabad City or such other officer as may be authorised by the State Government in this behalf on or before every 20th day of the respective month for the first fortnight and on or before every 5th of the next following month for the second fortnight".

5. In the said Order, for the Second Schedule appended to this order, the following Schedule shall be substituted, namely :—

"THE SECOND SCHEDULE"

(See clause 2(g) and first proviso clause 3(1) and 3(2) of the Gujarat Rice Procurement (Levy) Order, 1984,

Uniform Specification of fine and common Rice (Marketing Season 1994-95)

The rice shall be in sound merchantable condition, sweet, dry, clean, wholesome of good food value, uniform in colour and size of grains and free from moulds, weevils, obnoxious smell, admixure of un-wholesome poisonous substances argomone mexicana and kesari in any form or colouring agents and all impurities except to the extent in the Schedule below. It shall also conform to PFA standards.

Schedule of Specifications

Sr No.	Constituents	Tolerance Limit (TL) (%)	Rejection Limit (RL) (%)	Rate of quality cuts to be imposed beyond Tolerance Limits.
1	2	3	4	5
1.	Brokens Raw Par boiled	20.0 17.7	35.0 32.0	T.R. to R.L. @ ½ value -do-

2. Foreign matter Raw/ Par boiled	0.6	1.0	T.L. to R.L.@ full value
3. Damaged/Slightly damaged grains Raw/ Par boiled.	2.0 3·0	5.0 6.0	T.L. to R.L. @ ½ value -do.
4. Discoloured grains Raw Par boiled	2.0 4.0	4.0 8.0	T.L. to R.L. @ ½ value -do-
5. Chalky Grains Raw	8.0	12.0	T.L. to R.L. @ 1/8 value
6. Red Grains (Raw/ Par boiled)	6.0	10.0	T.L. to R.L. @ ½ value
7. Admixure of lower classes i.e. common in fine Raw/Par boiled.	10.0	20.0	Over 10% upto 20% @ ½ value. Down grade fine to common beyond R.L.
8. Dehusked grains Raw/Par boiled.	10.0	15.0	T.L. to R.L. @ 1/8 value
9. Moisture content Raw/Par boiled.	14.0	15.0	T.L. to R.L. @ full value

Uniform Specification for superfine Rice
(Marketing Season 1994-95)

The rice shall be in sound merchantable condition, sweet, dry, clean, wholesome of good food value, uniform in colour and size of grains and free from moulds weevils, obnoxious smell, admixure of unwholesome poisonous substances argemone maxicana and kesari in any form or colouring agents and all impurities except to the extent in the Schedule below. It shall also conform to PFA Standards.

Schedule of Specifications

Sr.	Constituents	Tolerance Limits (TL)	Rejection Limits (RL) %	Rate of qualily cuts to be imposed beyond Tolerance Limits.
1	2	3	4	5
1.	Brokens Raw Par boiled.	18.0 13.0	23.0 18.0	T L. to R.L,@ ½ value -do-
2.	Foreign matter Raw/Par boiled.	0.5	1.0	T.L. to R.L. @ full value
3.	Damage/slightly Damage grains Raw/ Par boiled.	2.0	4.0	T.L. to R L. @ ½ value
4.	Discoloured grains Raw/Par boiled.	2 0 3.0	3.0 5.0	T.L. to R.L. @ ½ value -do-
5.	Chalky grains Raw.	4.0	8.0	T.L. to R.L. @ 1/8 value
6.	Red grains Raw/ Par boiled	3.0	6.0	T.L. to R.L. @ ½ value

7. Admixture of lower classes Raw/Par boiled	10.0	20.0	Over 10% to 15% @ ½ value. Over 15% to 20% @ 1 value.
8. Dehusked grains Raw/Par boiled.	10.0	15.0	Downgrade beyond R.B. T.L. to R.L. 1/8 value
9. Moisture content Raw/Par boiled.	14.0	16.0	T.L. to R.B. full value

Notes applicable to the Specifications of Common, Fine and Superfine varieties of Rice.

Note-1 :—The definition of the above constituents and method of analysis are to be followed as given in Bureau of Indian Standard 'Method of Analysis of Foodgrains' No. IS-4333 (Part-I) 1967 and IS 4333 (Part-II) 1967 "Terminology for Foodgrains IS-2813-1970 as amended from time to time. Dehusked grains are the rice kernels whole or broken which have more than 1/4th of the surface area of the kernel covered with the bran and determined as follows :—

Analysis Procedure :—Take 5 g. of rice (sound head rice and brokens) in a petridish (80 × 17 mm) Dip the grains in about 20 ml. of methylene blue solution (0.05%) by weight in distilled water) and allow to stand for about 1 minute. Decent the methylene blue solution. Give a swirl wash with about 20 ml. of dilute hydrochloric acid. (5% solution by volume in distilled water). Give a swirl wash with water and pour about 20 ml. of metanil yellow solution (0.05 + by weight in distilled water) on the blue stained grains and allow to stand for about 1 minite. Decent the effluent and wash with fresh water twice. Keep the stained grains under fresh water and count de-husked grains. Count the total number of grains in 5g. of sample under analysis. Three brokens are counted as one whole grains.

Calculations : % of Dehusked grain $\frac{N \times 100}{W}$

Where N — Number of de-husked grain in 5g of sample and
W — Total grains in 5g. of sample.

2. The method of sampling is to be followed as given in B.I.S. 'Method of Sampling of Cereals and Pulses' No. IS-2314-1954 as amended from time to time.

3. Brokens less than 1/8 th of the size of full kernals will be treated as organic foreign matter. Within the overall limit for brokens, the small brokens of the size of 1/8th to 1/4th shall not exceed 5.0 + for determination of the size of the brokens average length of the principle class of rice should be taken into account.

4. Inorganic foreign matter shall not exceed 0.5% in any lot, if it is more, the stocks should be cleaned and brought within the limit kernels or pieces of kernels having mud sticking on the surface of rice, shall be treated as inorganic foreign matter.

5. In case of rice prepared by pressure parboiling technique, it will be ensured that correct process of parboiling is adopted i.e. pressure applied, the time for which pressure is applied proper gelatinisation, aeration and dry-

ing before milling are adequate so that the colour and cooking time of parboiled rice are good and free from cancentration of the grains.

Published in the Gujarat Government Gazette, Extraordinary, Part IV-A, dated October 15, 1994.

FOOD AND SUPPLIES DEPARTMENT

No. GHE/94/C9/WMA/1286/GOI/143/D.— (*Sachivalaya, Gandhinagar, 15th October, 1994*).— Whereas, draft of the Gujarat Standards of Weights and Measures (Enforcement) Rules, 1994 was published as required by sub-section (4) of section 72 of the Standards of Weights and Measures (Enforcement) Act, 1985 (64 of 1986) at pages 60-1 to 62-2 of the Gujarat Government Gazette Extraordinary, Part IV-A, dated 24th June, 1994 under the Government Notification, Food and Civil Supplies Department No. GHE/93/48/WMA/1286/GOI/143/D, dated the 24th June, 1994 inviting objections and suggestions from all persons to be affected thereby till 7th July, 1994.

And, Whereas, no objections and suggestions have been received from the public, Now, therefore, in exercise of the powers conferred by section 72 of the Standards of Weights and Measures (Enforcement) Act, 1985. In its application to the State Government and with the prior approval of Government of Gujarat hereby makes the following rules, namely :—

1. These rules may be called the Gujarat Standards of Weights and Measures (Enforcement) (Amendment) Rules, 1994.

2. They extend to the whole of State of Gujarat.

3. They shall come into force from the 1st November, 1994.

2. In the Gujarat Standards of Weights and Measures (Enforcement) Rules, 1990, for Schedule-XII, the following Schedule shall be substituted, namely :—

SCHEDULE-XII

[See rule 17 (1)]

Fees Payable for Verification and Stamping of Weights, Measures and Weighing and Measuring Instruments

1. Weights :

(a) Bullion Weight Denomination		Fees per piece Rs. Ps.
20	kg	10.00
10	kg	10 00
5	kg	6.00
2	kg	6.00
1	kg	6.00
500	g	5.00
200	g	5.00
100	g	5 00
50	g	5 00
20	g	5.00
10	g	5.00
5	g	5 00
2	g	5 00
1	g	5.00
500	mg	2.00

1		2
500	mg	2.00
100	mg	2.00
50	mg	2.00
10	mg	2.00
5	mg	2.00
2	mg	2,00
1	mg	2.00
(b) Brass Weights (Other than Bullion)		
1	kg	4.00
500	g	2.00
200	g	2.00
100	g	2.00
50	g	2.00
20	g	2.00
10	g	2.00
5	g	2.00
2	g	2.00
1	g	2.00
(c) Sheet Metal Weights (Other than Bullion)		
500	mg	2.00
200	mg	2 00
100	mg	2.00
50	mg	2.00
20	mg	2.00
10	mg	2.00
5	mg	2.00
2	mg	2.00
1	mg	2.00
(d) Iron and Steel Weights.		
50	kg	4.00
20	kg	4 00
10	kg	4.00
5	kg	4.00
2	kg	4.00
1	kg	4 00
500	g	2 00
200	g	2.00
100	g	2 00
50	g	2 00
(e) Carat Weights		
500	c	10.00
2 0	c	10.00
100	c	10.0 0
50	c	10 00
20	c	10 00
10	c	10.00
5	c	5.00

1		2
2	c	6.00
1	c	5.00
50/100	c	5.00
20/100	c	5 00
10/100	c	6.00
5/100	c	5.00
2/100	c	5.00
1/100	c	6.00
0.5/100	c	5.00

2. Capacity Measures (including storage tank, vehicles tanks, Dispensing Measures and Peg Measures)

Capacity

50 litres and above.		Rs. 15 for the first 100 litres or part thereof plus Rs. 5 for every additional 100 litres or part thereof subject to Maximum of Rs. 5000/-.
20	l	6.00
10	l	6.00
5	l	5.00
2	l	3.00
1	l	3.00
500	ml	2 00
200	ml	2.00
100	ml	2 00
50	ml	2 00
10	ml	2.00
5	ml	2.00
2	ml	2.00
1	ml	2 00
15	ml	6.00
60	ml	2.00
30	ml	2 00

3. LENGTH MEASURES

(a) Non Flexible.

2 00	m	3 00
1.00	m	3.00
0.50	m (Ordinary)	3.00
1.00	m (Graduated at every cm)	6.00
0.50	m (Graduated at every cm)	6.00

(b) Febrics or plastics tape ;

10	m and above.	Rs. 6.00 for the first 10m tape plus Rs. 2 00 for every additional 5 m upto maximum total length 10 m tape.
5	m	Rs. 3.00

1		2
4	m	Rs. 3.00
3	m	Rs. 3.00
2	m	Rs. 3.00
1.5	m	Rs. 3.00
1	m	Rs. 3.00
0.5	m	Rs. 3.00
(d) Folding Scales		
1	m	3.00
0.5	m	2.00
(e) Surveying Chains		
30	m	10.00
20	m	6.00
20	m	

4. Weighing instruments (Other than Beam Scales, Weighing Instruments of High Accuracy Class, Automatic Weighing Machines and Totalising Machines).

400	t	800
300	t	600
200	t	600
150	t	300
100	t	300
80	t	250
60	t	250
50	t	250
40	t	250
30	t	250
20	t	250
10	t	150
5	t	150
3	t	75
2	t	75
1500	kg	50
1000	kg	50
500	kg	50
300	kg	50
250	kg	50
200	kg	50
150	kg	50
100	kg	50
60	kg	25
30	kg	25
25	kg.	25
20	kg.	15
15	kg.	15
10	kg.	10

1		2
5	kg.	14
3	kg.	10
2	kg.	10
1	kg.	10
500	g. and below	6
Persons weighing machines excluding bath-room scales		30
(b) Kitchen scale		
500	g.	3.00
1	kg.	3.00
2	kg.	3.00
5	kg.	3.00
10	kg.	3.00
(c) Tabular balance		
1	kg	3.00
1	kg	3.00
10	kg	3.00
20	kg	3.00
50	kg	7.50
(d) Bathroom scale 120 kg. and above		10.00
6. Beam scale (Classes A and B)		
200	kg	150
6. Beam scales (Class A and B)		
100	kg	120
50	kg	100
20	kg	100
10	kg	60
5	kg	30
2	kg	30
1	kg	30
500 g. and below.		30
6. Beam Scales (Classes C and D)		
1000	kg	60
500	kg	30
300	kg	30
200	kg	15
100	kg	15
50	kg	10
20	kg	10
10	kg	10
5	kg	6
2	kg	6
1	kg	6
500 g. and below.		4
7. Weighing Instruments of high Accuracy Class.		
Exceeding 50 t.		1500
Not exceeding 50 t but exceeding 1. t.		300

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restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and the productivity of the domestic industry.

(vi) The effect of the dumped imports shall be assessed in relation to the domestic production of the like articles when available data permit the separate identification of that production on the basis of such criteria as the production process, producer's sales and profits. If such separate identification of that production is not possible, the effects of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

(vii) A determination of a threat of material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent. In making a determination regarding the existence of a threat of material injury, the designated authority shall consider, inter alia, such factors as :

(a) a significant rate of increase of dumped imports into India indicating the likehood of substantially increased importation ;

(b) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likehood of substantially increased dumped exports to India market, taking into account the availability of other export markets to absorb any additional exports ;

(c) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports ; and

(d) inventories of the articles being investigated.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 283 dated June 30, 1994.

MINISTRY OF FINANCE

No. G.S.R. 555(E).—*(dated 30th June, 1994).*—In exercise of the powers conferred by section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in public interest so to do, hereby exempts the taxable services, as are specified in column (2) of the Table hereto annexed, from the whole of service tax leviable thereon under section 66 of the said Act.

TABLE

Sl. No.	Specified taxable services
(1)	(2)
1.	Personal Accident Social and Security and Hut Insurance Scheme.
2.	Comprehensive Crop Insurance Scheme.
3.	Cattle Insurance under Integrated Rural Development Programme.
4.	Scheme for Insurance of Tribals.
5.	Janata Personal Accident Policy and Gramin Accident Policy.
6.	Group Personal Accident Policy for Self-employed Women.
7.	Agricultural Pumpset and Failed Well Insurance.

(1)	(2)
8.	Premia collected on insurance of export of goods from India and export credit insurance.
9.	Premium received from re-insurance both domestic and overseas.
10.	All business for which premium is booked outside India.
11.	Small transactions involving premium of less than rupees fifty except motor insurance.
12.	Departmentally run public telephones for local calls.
13.	Guaranted public telephone operating only for local calls.
14.	Free telephone at airports and hospitals where no bills are being issued.

This notification shall come into force on 1st day of July, 1994.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 409, dated 30th September, 1994.

MINISTRY OF SURFACE TRANSPORT

G.S.R. 732 (E).—*(dated 30th September, 1994).*—In exercise of the powers conferred by sub section (3) of Section 56 of the Motor Vehicles Act, 1988 (59 of 1988), the Central Government hereby makes the following rules, namely :—

1. These rules may be called the **Central Motor Vehicles (Amendment) Rules, 1994.**

2. They shall come into force on the date of their final publication in the Official Gazette.

3. In Rule 62 of the Central Motor Vehicles Rules, 1989, after clause (b), the following clause shall be inserted, namely :—

"(c) renewal of certificate of fitness in respect of vehicles covered under Rule 82 of these rules —three years".

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 431, dated 30th August, 1994.

MINISTRY OF FINANCE

S.O. No 026 (F).—*(Dated 30th August, 1994).*—In exercise of the powers conferred by Section 295 of the Income Tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income Tax Rules, 1962, namely :—

1. (1) These rules may be called the **Income Tax (9th Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

"73. **Withdrawal within twelve months before retirement.**—Notwithstanding anything contained in Rules 68 to 72, it shall be open to the trustees of a provident fund to permit at any time within twelve months before the date of retirement on superannuation of an employee, the withdrawal of up to ninety per cent of the amount standing at the credit of the employee".

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 366, Dated 1st September, 1994,

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

G.S.R. No. 664 (E).—(*Dated 1st September, 1994*).—In exercise of the powers conferred by sub-section (2) of Section 1 of the Institutes of Technology (Amendment) Act, 1994 (35 of 1994), the Central Government hereby appoints the 1st day of September, 1994 as the date on which the said Act shall come into force.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 360, dated 18th August, 1994

MINISTRY OF PERSONNEL, P.G. & PENSIONS

G. S. R. 646 (E).—(*Dated 18th August, 1994*).—In exercise of the powers conferred by sub-section (1) of Section 18 of the Administrative Tribunals Act, 1985 (13 of 1985), the Central Government hereby makes the following further amendment in the Notification of the Government of India in the erstwhile Ministry of Personnel and Training, Adu ministrative Reforms nad Public Grievances and Pension number G.S.R. 610 (E), dated the 26th July, 1985. namely :—

For the Table annexed to the said notification, the following Table shall be substituted, namely ;—

"TABLE

Sl. No.	Bench	Jurisdiction of the Bench
(1)	(2)	(3)
1.	Principal Bench (New Delhi)	National Capital Territory of Delhi.
2.	Ahmedabad Bench	State of Gujarat.
3.	Allahabad Bench	State of Uttar Pradesh excluding the Districts mentioned against Serial Number 4 under the jurisdiction of Lucknow Bench.
4.	Lucknow Bench	Districts of Lucknow, Hardoi, Kheri, Rai Barelli, Sitapur, Unnao, Faizabad, Baharaich, Barabanki, Gonda, Pratapgarh and Sultanpur in the State of Uttar Pradesh.
5.	Bangalore Bench	State of Karnataka.
6.	Calcutta Bench	State of Sikkam and West Bengal and the Union Territory of the Andaman and Nicobar Islands.
7.	Chandigarh Bench	State of Jammu and Kashmir, Haryana, Himachal Pradesh and Punjab and the Union Territory of Chandigarh.
8.	Cuttack Bench	State of Orissa,
9.	Ernakulam Bench	State of Kerala and the Union Territory of Lakshadweep.

(1)	(2)	(3)
10.	Guwahati Bench	States of Assam, Manipur, Meghalaya, Nagaland, Tripura, Arunachal Pradesh and Mizoram.
11.	Hyderabad Bench	State of Andhra Pradesh.
12.	Jabalpur Bench	State of Madhya Pradesh.
13.	Jodhpur Bench	State of Rajasthan excluding the Districts mentioned against Serial Number 14 under the jurisdiction of Jaipur Bench.
14.	Jaipur Bench	Districts of Ajmer, Alwar, Baran, Bharatpur, Bundi, Dausa, Dholpur, Jaipur, Jhalawar, Jhunjhun, Kotah, Sawai Madhopur, Sikar and Tonk in the State of Rajasthan.
15.	Madras Bench	State Tamil Nadu and the Union Territory of Pondicherry.
16.	Bombay Bench	State of Maharashtra and Goa and the Union Territory of Dadra and Nagar Haveli and Daman and Diu.
17.	Patna Bench	State of Bihar.".

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 405, dated 28th September, 1994.

MINISTRY OF FINANCE

G.S.R. 728 (E).—*(dated 28th September, 1994).*—In exercise of the powers conferred by Section 48 of the Finance Act, 1989 (13 of 1989), the Central Government hereby makes the following rules further to amend the Inland Air Travel Tax Rules, 1989, namely :—

1. (1) These rules may be called the Inland Air Travel Tax (Second Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Form annexed to the Inland Air Travel Tax Rules, 1989, in Part-B, for column (6) and the entry relating thereto, the following column shall be substituted, namely :—

"(6) The net amount of fare collected in the sector during the month :—

(i) from tax-paying passengers

(ii) from exempted category.".

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 476, dated 16th November, 1994.

MINISTRY OF INFORMATION AND BROADCASTING

G.S.R. 816(E).—*(dated 6th November, 1994).*—In exercise of the powers conferred by Section 8 of the Cinematograph Act, 1952 (37 of 1952), the Central Government hereby makes the following rules further to amend the

Cinematograph (Certification) Rules, 1983, namely :—

1. Short title and commencement.—(1) These rules may be called the the Cinematograph (Certification) (Third Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Rule 24 of the Cinematograph (Certification) Rules, 1983,—

(1) at the end of sub-rule (2), the following proviso shall be added, namely :—

"Provided that subject to the provisions of sub-rule (11), the Chairman shall give due representation to women in the Committee by nominating such number of women members as he thinks fit.".

(2) for the existing sub-rule (11), the following shall be substituted, namely :—

"(11) The quorum of the Revising Committee shall be five members of whom at least two persons shall be women ;

Provided that the number of women members shall not be less than one-half of the total members of a Committee constituted under sub-rule (2).".

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 620, dated 15th December, 1994.

MINISTRY OF RAILWAYS

G.S.R. 864(E).—*(dated 15th December, 1994).*—In exercise of the powers conferred by sub-section (1) read with clause (b) of sub-section (3) of Section 60 of the Railways Act, 1989 (24 of 1989), the Central Government hereby makes the following rules further to amend the Railways Passengers (Cancellation of Tickets and Refund of Fares) Rules, 1990 namely :—

1. (1) These rules may be called the Railway Passengers (Cancellation of Tickets and Refund of Fares) Third Amendment Rules, 1994.

(2) They shall come into force on the the Fifteenth day of December, 1994.

2. In the Railway Passengers (Cancellation of Tickets and Refund of Fares) Rules, 1990,—

(a) in Rule 2, in sub-rule (3), for the words "sleeper charge, supplementary charge, superfast charge", the words "supplementary charge on superfast trains" shall be substituted ;

(b) in Rule 3, for the words "rupees two", the words "rupees five" shall be substituted ;

(c) in Rule 6, in sub-rule (1), in clause (a),—

(i) for the words "airconditioned sleeper", the words "airconditioned sleeper, airconditioned 3-tier sleeper" shall be substituted ;

(ii) for the words "second class", the words "sleeper class and second class" shall be substituted ;

(d) in Rule 7, in sub-rule (1), for the abbreviation figure "Rs. 2" the words "rupees five" shall be substituted ;

(e) in Rule 8, in sub-rule (1) for the abbreviation and figure "Rs. 2", the words "rupees five" shall be substituted ;

(f) in Rule 13, in sub-rule (2), for the word "Superintendent" the word "Manager" shall be substituted ;

(g) in Rule 16, in sub-rule (1), in clause (b), for the words "airconditioned sleeper coach, the difference between airconditioned sleeper class fare and second class sleeper", the words "airconditioned sleeper, airconditioned 3-tier sleeper class, the difference between airconditioned sleeper/airconditioned 3-tier sleeper class fare and sleeper class" shall be substituted ;

(h) in Rule 21, in sub-rule (2), for the word "Superintendent", the word "Manager" shall be substituted.

Published in the Gazette of India, Part II, Section 3(i), No. 47, dated 19th November, 1994.

MINISTRY OF RAILWAYS

G.S.R. 574.— (*dated 7th November, 1994*).—In exercise of the powers conferred by Section 21 of the Railways Protection Force Act, 1957 (23 of 1957), the Central Government hereby makes the following rules further to amend the Railway Protection Force Rules, 1987, namely :—

1. (1) These rules may be called the Railway Protection Force (Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Rule 47 of the Railway Protection Force Rules, 1987 (hereinafter referred to as the said rules),—

(a) in clause (a), for the words, figures and letters "Height-170 cms.", the words, figures and letters "Height-165 cms." shall be substituted ;

(b) the first proviso shall be omitted.

(c) in the second proviso, for the words "Provided further" the word "Provided" shall be substituted.

3. In Rule 48 of the said rules,—

(a) in sub-rule (1), in clause (i), for the figures and word "23 years", the figures and words "25 years" shall be substituted ;

(b) after sub-rule (1), the following sub-rule shall be inserted, namely :—

"1-*A*. For the direct recruitment to the posts of Sub-Inspectors and Inspectors Grade-II in Prosecution Branch, the age limit and educational qualifications shall be as specified in Schedule IV.".

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 47, dated 19th November, 1994.

MINISTRY OF LABOUR

G.S.R. 576.— (*Dated 1st November, 1994*).—In exercise of the powers conferred by Section 6-C read with sub-section (1) of Section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following scheme further to amend the Employees' Deposit Linked Insurance Scheme, 1976, namely :—

1. (1) This Scheme may be called the Employees' Deposit Linked Insurance (Third Amendment) Scheme, 1994.

(2) It shall be deemed to have come into force on and from the 1st October, 1994.

2. In the Employees' Deposit-Linked Insurance Scheme, 1976, in the proviso to Paragraph 7, for the words, "three thousand and five hundred

rupees" wherever they occur, the words, five thousand rupees" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), No. 47, dated 19th November, 1994.

MINISTRY OF LABOUR

G.S.R. 577.—*(Dated 1st November, 1994).*—In exercise of powers conferred by Section 6-A read with sub-section (1) of Section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following scheme further to amend the Employees' Family Pension Scheme, 1971, namely :—

1. (1) This Scheme may be called the Employees' Family Pension (Second Amendment) Scheme, 1994.

(2) It shall be deemed to have come into force on and from the 1st October, 1994.

2. In the Employees' Family Pension Scheme, 1971, in paragraph 9, in the proviso to sub-paragraph (3), for the words, "three thousand and five hundred rupees" wherever they occur, the words, "five thousand rupees" shall be substituted.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), No. 278, dated 12th May, 1994.

MINISTRY OF FINANCE

S.O. 367 (E). —*(Dated 12th May, 1994).*—In exercise of the powers conferred by Section 293 of the Income Tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income Tax Rules, 1962, namely :—

1. (1) These rules may be called the Income Tax (Third Amendment) Rules, 1994.

(2) They shall come into force from the 1st of June, 1994.

2. In the Income Tax Rules, 1962,—

(i) in sub-rule (1) of Rule 12 of the Income Tax Rules, 1962, in clause (b),—

(a) after sub-clause (i) the following sub-clause shall be inserted, namely :—

"(ii) where, in the case of an individual resident in India, his total income—

(A) does not exceed Rs. 1,20,000 ;

(B) does not include chargeable to income-tax under the head "Profits and gains of business or profession" ; and

(C) does not include any brought forward or carried forward loss or allowance except under the head "Income from house property",

be in Form No. 2-A and be verified in the manner indicated therein ;

Provided that for assessment year 1994-95 the assessee to whom this sub-clause applies shall also have the option of filing the return in Form No. 3";

(b) in sub-rule (iii) after the brackets and words "Profits and gains of business or profession", the words, brackets and letters "and the case does not fall under sub-clause (ii)" shall be inserted.

(ii) in Appendix II, after Form No. 2, the following Form shall be inserted, namely :—

FORM NO. 2-A

[See Rule 12 (1) (b)(ii) and Income Tax Act, 1961]

This return form is meant for individual resident in India who fulfils all the following conditions ;

(a) There is no income from business or profession.

(b) There is no brought forward or carried forward/allowance under any head of income except from house property.

(c) The total income does not exceed Rs. 1,20,000.

Please go through the accompanying instructions carefully.

Part I—General Information

1. Assessment Year [1 \| 9 \| 9 \| \| \| 9 \|] 2. PAN/GIR No.

3. Date of Birth 4. Ward/Circle/Special Range [ ]

5. If revised return, date of filing original return [ ] and receipt No. [ ]

6. Name (Surname First)

7. Office Address Telephone

8. Residential Address Telephone

9. Father's Name (Surname First)

Part II—Statement of Income

A. Salaries (Enclose certificate in form No. 16 from employer)

1. Gross Salary (including taxable allowances, perquisites and profits in lieu of salary) [ ]

2. Less : Deduction u/s 16 (Standard deduction/entertainment allowance/profession tax) [ ]

3. Income under the head "Salaries" (1—2) [ ]

B. House Property

1. Description of Property(ies)

2. Annual lettable value/annual rent (whichever is higher [ ]

3. Less ; Municipal taxes & allowances for newly contructed residential units u/s 23 [ ]

4. Deductions u/s 24 including carried forward losses
5. Loss/Income under the head "Income from House Property" (2-3-4)

C. Capital Gains

1. Short term capital gains
2. Long term capital gains
3. Income under the head "Capital Gains (1+2)

D. Income from other sources

1. Gross Income
2. Deductions
3. Loss/Income under the head "Income from other sources" (1—2)

E. Gross total income (A-3+B-3+C-3+D-3)

F. 1. Name of the person, if any, whose income has been included in terms of Chapter V in the computation of total income (Surname First)

2. Income included in Items B to D.

G. Less : Deductions under Chapter VI-A

1. u/s.....
2. u/s.....
3. u/s.....
4. u/s.....
5. Total income

H. Total Income

I. Net agricultural income for rate purposes

Part-III Statement of Taxes

A. Tax on total income

1. At normal rates
2. At special rates

B. Less : Rebate u/s 88/88-B

C. Tax payable, including surcharge, if any (A-B+Surcharge)

D. Less : Relief u/s 89/90/91

E. Net tax payable (C-D)

F. Less : Tax paid during the year (Attach tax deduction certificates and challans)

1. Tax deducted at source from
(a) Salaries
(b) Any other source
2. Advance tax paid
3. Total tax paid

G. Balance tax payable (E-F)

H. Add : Interest payable u/s 234-A/234-B/234-C

I. Total (G+H)

J. Less : Self Assessment tax paid attach challan)

K. Tax/Interest payable or refund due (I-J)

Part-IV Income claimed exempt (Given details)

Part-V—Documents attached

State the number and nature of documents attached

VERIFICATION

I.....(Name in full and block letters), son/daughter of.....solemnly declare that, to the best of my knowledge and belief, the information given in this return and the annexures and statements accompanying it is correct, complete and truly stated and is in accordance with the provisions of Income Tax Act, 1961, in respect of income chargeable to Income Tax for the previous year relevant to assessment year, 199—9.

Date

Place..... Signature.....

Published in the Gazette of India, Extraordinary, Part III, Section 4, No. 8, dated 24th March, 1994.

BOARD FOR INDUSTRIAL & FINANCIAL RECONSTRUCTION

No. 1(5)/BC/94.—*(dated 24th March, 1994)*.—In exercise of the powers conferred by Section 13 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Board for Industrial and Financial Reconstruction hereby makes the following regulations further to amend the Board for Industrial and Financial Reconstruction Regulations, 1987, namely :—

1. These regulations may be called the Board for Industrial and Financial Reconstruction (Amendment) Regulations, 1994.

2. They shall come into force on the date of their publication in the Official Gazette.

3. Regulation 3—Definitions

(i) In clause (e) "Informant"—the words "and a person making a report to the Board under sub-section (1) of Section 23-A" shall be added at the end.

(ii) in clause (g) "Operating Agency" the words "State level institution, scheduled bank or any other person" shall be added after the words "public financial institution".

(iii) in clause (h) "persons interested", the word "industrial" occurring in the 2nd, 4th and 6th lines shall be omitted.

4. In Regulation 14, sub-section (5),—For the word "Board", the word "Chairman" shall be substituted.

5. In Regulation 19, for sub-regulations (4), (5), (6) & (7) the following shall be substituted :—

"(4) On receipt of a reference in the office of the Board, the date on which it is filed or received in the office of the Board alongwith the endorsement "received subject to verification that the reference is in order" shall be stamped.

(5) If on scrutiny, the reference is found to be in order, it shall be registered assigned serial number and submitted to the Chairman or assigning it to a Bench. Simultaneously, remaining information/documents requis-

ed, if any, shall be called for from the informant.

(6) If on scrutiny, the reference is not found to be in order, the Secretary, or as the case may be, the Registrar may by order decline to register the reference and shall communicate the same to the informant.

(7) A reference declined to be registered shall be deemed not to have been made."

6. In the First Proviso to Regulation 28—

(i) The word "industrial" wherever occurring except in the expression "sick industrial company" in the 2nd and 3rd line shall be omitted.

(ii) The words "or vice-a-versa" shall be added after the word "company" in the 3rd line.

7. In Regulation 29, the word "industrial" shall be omitted in the 9th and 10th line.

8. In Regulation 30, the word "industrial" shall be omitted in the 4th and 6th lines.

9. In Regulation 31,—

(i) The words "of the Sick Industrial Company with another industrial company", in the 2nd and 3rd line shall be omitted

(ii) The words "transferee industrial company" occurring in the 5th, 6th and 7th line shall be substituted by "the company other than the sick industrial company ;

10. Regulation 34

(i) Sub-regulation (2) ;—The words and figures, "or within such further period not exceeding 60 days as may be allowed by the Board. If no such consent is received, it shall be deemed to have been given" shall be inserted at the end.

(ii) Sub-regulation (3).—The words "or when consent is deemed to have been given" shall be added after the words "every person" in the 1st line.

11. Chapter VIII

(1) For the Existing heading, "Reports under Section 23 and 23-A" shall be substituted.

(2) The existing Regulation 36 shall be renumberd as Regulation 36(1) and the following sub regulations shall be added under the foregoing :—

"(2) Reports of erosion of net worth within the meaning of sub-section (1) of Section 23-A shall be made in Form "D" in respect of an industrial company other than a Government company and in Form "DD" in respect of a Government company and shall be accompanied by five further copies thereof.".

(3) On receipt of a report in Form "D or as the case may be, in Form "DD" the same shall be submitted through the Secretary, to the Chairman for assigning the case to a Bench for dealing with the same in accordance with the provisions of the Act.

12. For the existing forms, "A", "AA", "B", "BB", "C" and "CC" the following forms shall be substituted, namely :—

"FORM A

(See Regulation 19)

Complete Information/Documents as per the Different Columns of the Form should be Furnished in Six Sets. an incomplete Reference is Liable to be Rejected

(Form Omitted)

FORM AA

[See Regulation 19(1)]

Complete Information/Documents as per the Different Columns of the Form should be Furnished in Six Sets, an Incomplete Reference is Liable to be Rejected

(Form Omitted)

FORM B

[See Regulation 19(2)]

Complete Information/Documents as per the Different Columns of The Form should be Furnished in Six Sets, An Incomplete Reference is Liable to be Rejected

(Form Omitted)

FORM BB

[See Regulation 19(2)]

Complete Information/Documents as per the Different Columns of the Form should be Furnished in Six Sets, An Incomplete Reference is Liable to be Rejected

(Form Omitted)

FORM "C"

[See Regulation 36(1)]

To be filled up in respect of Government Companies.

(Form Omitted)

FORM D

[See Regulation 36(2)]

Complete Information/Documents as per the Different Columns of the Form should be Furnished in Six Sets

(Form Omitted)

FORM DD

[See Regulation 36(2)]

Complete Information/Documents as per the Different Columns of the Form should be Furnished in Six Sets

To be filled up in respect of Government companies.

(Form Omitted)

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 401, dated 27th September, 1994.

MINISTRY OF MINES

G.S.R. No. 724 (E).—*(Dated 27th September, 1994)*.—In exercise of the powers conferred by section 13 of the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957), the Central Government hereby makes the following rules further to amend the Mineral Concession Rules, 1960, namely :—

1. (1) These rules may be called the Mineral Concession (Second Amendment) Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In Rule 14 of the Mineral Concession Rules, 1960 (hereinafter referred to as the principal rules), in sub-rule (1),—

(i) For clause (ii), the following clause shall be substituted, namely :—

"(ii) The licensee may win and carry for purposes other than commercial purposes—

(a) any quantity of such minerals within the limits specified under Column 3 of Schedule III without any payment ;

(b) any quantity of such minerals not exceeding the limit specified under Column 4 of Schedule III, on payment of royalty for the time being specified in the Second Schedule to the Act in respect of those minerals :

Provided that if any quantity in excess of the quantities specified in sub-clause (b) is won and carried away, the State Government may recover the cost of the excess quantity of minerals won and carried away," ;

(ii) for clause (iii), the following clause shall be substituted namely :—

"(iii) With the written approval of the State Government, the licensee may carry away quantities of minerals in excess of the limits specified in Schedule III, on payment of royalty for the time being specified in the Second Schedule to the Act, for chemical, metallurgical, ore-dressing and other test purposes" ;

(iii) For clause (v), the following clause shall be substituted, namely :—

"(iv) The licensee shall report to the State Government the discovery of any mineral not specified in the licence within a period of sixty days from the date of such discovery. Consequent upon such reporting, such newly discovered mineral shall be deemed to have been included in the Prospecting licence" ;

(iv) Clause (vi) shall be omitted ;

(v) The first proviso to clause (xii) shall be omitted.

3. In Rule 16 of the principal rules, in sub-rule (1), for the words "quarterly report", the words "six monthly report" shall be substituted.

4. Rule 17 of the principal rules shall be omitted.

5. In Rule 22 of the principal rules,—

(i) in sub-rule (3) clause (c) shall be omitted.

(ii) after sub-rule (3), the following sub-rules (4) and (5) shall be added, namely :—

"(4) Once the State Government receives the application for a mining lease and has decided to grant an area to applicant, it must communicate the precise area to the applicant. On receipt of communication from the State Government of the precise area to be granted, the applicant should prepare a mining plan within six months or such other period as may be allowed by the State Government. The applicant should then submit the mining plan to the State Government who would then sanction grant of lease over that area. The lease deed should be signed thereafter when all other required conditions have been fulfilled.

(5) The mining plan shall incorporate :—

(i) the plan of the area showing the nature and extent of the mineral body, spot or spots where the excavation based on the prospecting area gathered by the applicant or any other person ; a tentative scheme of mining plan for the first five years of the lease ;

(ii) details of the geology of the area including mineral reserves of

the area ;

(iii) the extent of manual mining or mining by use of machinery and mechanical devices ;

(iv) the plan of the area showing natural water sources, limits of reserves and other forest areas and density of trees, if any, assessment of impact of mining activity on forest land surface and environment including air and water pollution ; details of the scheme of restoration of the area by afforestation, land reclamation, use of pollution control devices and such other measures as may be directed by the Central Government or the State Government from time to time ;

(v) annual programme and plan for excavation from year to year for five years ; and

(vi) any other matter which the Central Government may require the applicant to provide in the mining plan.".

6. In Rule 24-A of the principal rules,—

(i) for sub-rule (6), the following shall be substituted, namely :—

"(6) If an application for renewal of a mining lease made within the time referred to in sub-rule (1) is not disposed of by the State Government before the date of expiry of the lease, the period of that lease shall be deemed to have been extended by a further period till the State Government passes order thereon" ;

(ii) for sub-rule (9), the following shall be substituted, namely :—

"(9) If an application for first renewal made within the time referred to in sub-rule (8) or within the time allowed by the State Government under the proviso to sub-rule (8), the period of that lease shall be deemed to have been extended by a further period till the State Government passes orders thereon" ;

(iii) after sub-rule (3), the following sub-rule shall be inserted, namely :—

"(10) The State Government may condone delay in an application for renewal of mining lease made after the time prescribed in sub-rule (1).".

7. In Rule 27 of the principal rules, clause (a) shall be omitted.

8. Rule 36 of the principal rules shall be omitted.

9. In Rule 37 of the principal rules,—

(i) in sub-rule (1), the first proviso shall be omitted ;

(ii) for sub-rule (1-A), the following sub-rule shall be substituted, namely :—

"(1-A) The State Government shall not give its consent to transfer of mining lease unless the transferee has accepted all the conditions and liabilities which the transferor was having in respect of such mining lease.".

10. Rule 38 of the principal rules shall be omitted.

11. For Schedule III of the principal rules, the following Schedule shall be substituted, namely :—

"THE SCHEDULE

[See Rule 14 (1) (ii) (a) & (b)]

Maximum quantities of ores and mineral removable

Class	Mineral/ore	Quantities that can be carried away without any payment	Maximum quantity that can be carried away by payment of royalty
1	2	3	4
Class-I	Asbestos, graphite, mica, native sulphur, auriferrous rock with visible uranium mineral and uranium bearing minerals, minerals of rare earths group beyl, tentalite, columbite-concentrates of ore of antimony arsenic, bismuth, chromium, copper, lead, nickel, tin, titanium, tungsten, zinc.	250 kg.	10 tonnes
Class-II	Auriferrous rock and gravel containing no visible gold, metalliferous ores meant for extracting cadmium, cobalt, mercury, molybdenum, silver, bellium, vanadium barytes, bitumen, borax, corrundum, emery grossularite, felspar, fluorspar and calcite.	5 tonnes	200 tonnes
Class-III	Uraniferrous rock without visible uranium minerals, metalliferous ores meant for extracting antimony, arsenic, bismuth, chromium, copper, lead, nickel, tin, titanium, fungsten, zinc and compound ores containing metals of cadmium, cobalt, mercurry, molybdenum, silver, bellium and vanadium gypsum, limestone, iron pyrites, shales, red and yellow ochre, bauxite metalliferous ores meant for extracting aluminium, iron and manganese.	10 tonnes	200 tonnes
Class-IV	Limestone, sillimanite, kyanite, magnestic, serpentine, steatite, vermiculite, fireclay, kaolin and other refractory materials, coal and lignite.	50 tonnes	200 tonnes
Class-V	All other minerals not specified 10 tonnes above.	10 tonnes	200 tonnes.

12. In Form "O" of Schedule I to the principal rules,—

(i) Item 1 and entries relating thereto shall be omitted.

(ii) In Item 3, for clause (iv), the following clause shall be substituted, namely :—

"(iv) The transferee hereby declares that he/she has accepted all the conditions and liabilities which the transferer was having in respect of such mining lease.".

Published in the Gazette of India, Extraordinary, Part II, Section 3 (ii), dated 6th January, 1995.

MINISTRY OF CHEMICALS AND FERTILISERS

S.O. 11 (E).—*Dated 6th January, 1995*.—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order, namely :—

1. Short title and commencement.—(1) This Order may be called the Drugs (Price Control) Order, 1995.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. Definitions.—In this Order, unless the context otherwise requires, —

(a) "bulk drug" means any pharmaceutical, chemical, biological or plant product including its salts, esters, stereo-isomers and derivatives, conforming to pharmacoepoeial or other standards specified in the Second Schedule to the Drugs and Cosmetics Act, 1940 (23 of 1940), and which is used as such or as an ingredient in any formation ;

(b) "capital employed" means net fixed assets plus working capital of a manufacturer in relation to manufacture of bulk drugs ;

(c) "ceiling price" means a price fixed by the Government for Scheduled formulations in accordance with the provisions of paragraph 9 ;

(d) "dealer" means a person carrying on the business of purchase or sale of drugs, whether as a wholesaler or retailer and whether or not in conjunction with any other business, and includes his agent ;

(e) "distributor" means a distributor of drugs or his agent or a stockist appointed by a manufacturer or an importer for stocking his drugs for sale to a dealer ;

(f) "drug" includes—

(i) all medicines for internal or external use of human being or animals and all substances intended to be used for, or in the diagnosis treatment, mitigation, or prevention of any disease or disorder in human beings or animals, including preparations applied to human body for the purpose of repelling insects like mosquitoes ;

(ii) such substances, intended to affect the structure or any function of the human or animal body or intended to be used for the destruction of vermin or insects which cause disease in human beings or animals, as may be specified from time to time by the Government by notification in the Official Gazette ; and

(iii) bulk drugs and formulations ;

(g) "Form" means a form specified in the Second Schedule ;

(h) "formulation" means a medicine processed out of, or containing one or more bulk drug or drugs with or without the use of any pharmaceutical aids, for internal or external use for or in the diagnosis, treatment, mitigation or prevention of disease in human beings or animals, but shall

not include—

(i) any medicine included in any bona fide Ayurvedic (including Sidha) or Unani (Tibb) systems of medicines ;

(ii) any medicine included in the Homoeopathic system of medicine ; and

(iii) any substance to which the provisions of the Drugs and Cosmetics Act, 1940 (23 of 1940) do not apply ;

(i) "free reserve" means a reserve created by appropriation of profits, but does not include reserves provided for contingent liability, disputed claims, goodwill, revaluation and other similar reserves ;

(j) "Government" means the Central Government ;

(k) "import" with its grammatical variations and cognate expressions means bringing into India from a place outside India, and "importer", in relation to any goods at any time between their importation and consumption, includes any owner or any person holding himself out to be the importer ;

(l) "manufacture" in relation to any drug, includes any process or part of a process for making, altering, finishing, packing, labelling, breaking or otherwise treating or adapting any drug with a view to its sale and distribution, but does not include the compounding or dispensing of any drug or the packing of any drug in the ordinary course of retail business, and "to manufacture" shall be construed accordingly ;

(m) "manufacturer" means any person who manufactures a drug ;

(n) "net-worth" means the paid-up share capital of a company plus free reserve, if any, and surpluses excluding outside investments which are not readily available for operational activity ;

(o) "non-Scheduled bulk drug" means a bulk drug not specified in the Schedule ;

(p) "non-Scheduled formulation" means a formulation not containing any bulk drug specified in the First Schedule ;

(q) "pre-tax return" means profits before payment of income-tax and surtax and includes such other expenses as do not form part of the cost of formulation ;

(r) "price list" means a price list referred to in paragraphs 14 and 15 and includes a supplementary price list ;

(s) "retail price" means the retail price of a drug arrived at or fixed in accordance with the provisions of this Order and includes a ceiling price ;

(t) "retailer" means a dealer carrying on the retail business of sale of drugs to customers ;

(u) "Scheduled bulk drug" means a bulk drug specified in the First Schedule ;

(v) "Scheduled formulation" means a formulation containing any bulk drug specified in the First Schedule either individually or in combination with other drugs, including one or more than one drug or drugs not specified in the First Schedule except single ingredient formulation based on bulk drugs specified in the First Schedule and sold under the generic name ;

(w) "sale turn-over" means the product of units of formulations sold by a manufacturer or an importer, as the case may be, in an accounting

year multiplied by retail price inclusive of sales tax, if any, paid on direct sales by the manufacturer or importer but does not include excise duty and local taxes, if any ;

(x) "Schedule" means a Schedule annexed to this Order ;

(y) "wholesaler" means a dealer or his agent or a stockist appointed by a manufacturer or an importer for the sale of his drugs to a retailer, hospital, dispensary, medical, educational or research institution purchasing bulk quantities of drugs.

3. **Power to fix the maximum sale prices of bulk drugs specified in the First Schedule.**—(1) The Government may with a view to regulate the equitable distribution and increasing supplies of a bulk drug specified in the First Schedule and making it available at a fair price, from different manufacturers, after making such inquiry as it deems fit, fix from time to time, by notification in the Official Gazette, a maximum sale price at which such bulk drug shall be sold ;

Provided that for the purpose of enquiry, in addition to the information required to be furnished by the manufacturers under this Order, the manufacturers shall provide any such additional information as may be required by the Government, and shall allow for inspection of their manufacturing premises for verification through on the spot study of manufacturing processes and facilities and records thereof, by the Government.

(2) While fixing the making sale price of a bulk drug under sub-paragraph (3), the Government shall take into consideration a post-tax return of fourteen per cent on net worth or a return of twenty two per cent on capital employed or in respect of a new plant an internal rate of twelve per cent based on long term marginal costing depending upon the option for any of the specified rates of return that may be exercised by the manufacturer of a bulk drug ;

Provided that where the production is from basic stage, the Government shall take into consideration a post-tax return of eighteen per cent on net worth or a return of twenty six per cent on capital employed ;

Provided further that the option with regard to the rate of return once exercised by a manufacturer shall be final and no change of rates shall be made without the prior approval of the Government.

(3) No person shall sell a bulk drug at a price exceeding the maximum sale price fixed under sub-paragraph (1) plus local taxes, if any ;

Provided that until the price of a bulk drug is fixed, by the Government under sub-paragraph (1), the price of such bulk drug shall be the price which prevailed immediately before the commencement of this Order and the manufacturer of such bulk drug shall not sell the bulk drug at a price exceeding the price prevailing immediately before the commencement of this Order.

(4) Where, after the commencement of this Order, any manufacturer commences production of any bulk drug specified in the First Schedule, he shall within fifteen days of the commencement of production of such bulk drug, furnish the details to the Government in Form 1, and any such additional information as may be required by the Government and the Government may after receipt of the information and after making such inquiry as it may deem fit, may fix the maximum sale price of bulk drug by notification in the Official Gazette.

(5) Any manufacturer who desires revision of the maximum sale price of a bulk drug fixed under sub-paragraph (1) or (4) or as permissible under sub-paragraph (3), as the case may be, shall make an application to the Government in Form I and the Government shall after making such inquiry, as it deems fit within a period of four months from the date of receipt of the complete information, fix a revised price for such bulk drug or reject the application for revision for reasons to be recorded in writing.

4. **Information to be furnished by the manufacturer in relation to the Scheduled bulk drugs**.—Every manufacturer, producing a Scheduled bulk drug shall furnish to the Government,—

(a) a list of all Scheduled bulk drugs produced by him within thirty days of the commencement of this Order and indicate the details of the cost of each of such bulk drug in Form I;

(b) the details of the cost of each Scheduled bulk drug produced by him, including such bulk drug which has been produced after the commencement of this Order, in Form I by the 30th September, every year.

5. **Information to be furnished by the manufacturer in relation to the non-Scheduled bulk drugs**.—Every manufacturer, producing a non-Scheduled bulk drug shall furnish to the Government,—

(a) a list of all such bulk drugs produced by him within thirty days of the commencement of this Order and indicate the details of the cost of each of such bulk drugs in Form II;

(b) the details of the cost of each non-Scheduled bulk drug produced by him, including such bulk drug which has been produced after the commencement of this Order, in Form II;

Provided that, for the purpose of this paragraph, the Government, may after making such inquiry as it may deem necessary in public interest, fix or revise the price of any non-Scheduled bulk drug at a price exceeding the price so fixed or revised, within fifteen days of receipt of the order.

6. **Power to direct manufacturers of bulk drugs to sell bulk drugs to other manufacturers of formulations**.—(1) With a view to achieving adequate production and regulating the equitable distribution, the Government may, from time to time, by general or special order, direct any manufacturer of any bulk drug to sell such bulk drug to such other manufacturers of formulations as may be specified in such order;

Provided that while making any such order, the Government shall have regard to all or any of the following factors, namely:—

(i) the requirement for captive consumption of such manufacturer, and;

(ii) the requirement of other manufacturers.

(2) For the purpose of making any order under sub-paragraph (1), the Government may call for such information from manufacturer, importer or distributor, of bulk drugs, as it may consider necessary and such manufacturer, importer or distributor shall be bound to furnish such information within such time as may be specified by the Government

7. **Calculation of retail price of formulation**.—The retail price of a formulation shall be calculated by the Government in accordance with the following formula, namely,—

$$R.P. = (M.C. + C.C. + P.M. + P.C.) \times (1 + MAPE/100) + ED.$$

where—

"R.P." means retail price ;

"M.C." means material cost and includes the cost of drugs and other pharmaceutical aids used including overages, if any, plus process loss thereon specified as a norm from time to time by notification in the Official Gazette in this behalf ;

"C.C." means conversion cost worked out in accordance with established procedures of costing and shall be fixed as a norm every year by notification in the Official Gazette in this behalf ;

"P.M." means cost of packing material used in the packing of concerned formulation, including process loss, and shall be fixed as a norm every year by notification in the Official Gazette in this behalf ;

"P.C." means packing charges worked out in accordance with established procedures of costing and shall be fixed as a norm every year by notification in the Official Gazette in this behalf ;

"(MAPE) (Maximum Allowable Post-manufacturing Expenses) means all costs incurred by a manufacturer from the stage of ex-factory cost to retailing and includes trade margin and margin for the manufacturer and it shall not exceed One hundred per cent for indigenously manufactured formulations ;

"E.D." means excise duty ;

Provided that in the case of an imported formulation, the landed cost shall form the basis for fixing its price along with such margin to cover selling and distribution expenses including interest and importer's profit which shall not exceed fifty per cent of the landed cost.

Explanation.—For the purpose of this proviso, "landed cost" means the cost of import of formulation inclusive of customs duty and clearing charges.

8. **Power to fix retail price of Scheduled Formulations.**—(1) The Government may, from to time, by order, fix the retail price of a Scheduled formulation in accordance with the formula laid down in paragraph 7.

(2) Where the Government fixes or revises the price of any bulk drug under the provisions of this Order and a manufacturer utilises such bulk drug in his Scheduled formulation he shall, within thirty days of such fixation or revision, make an application to the Government, in Form III for price revision of all such formulations and the Government may, if it considers necessary, fix or revise the price of such formulation.

(3) The retail price of a formulation once fixed by the Government under sub-paragraphs (1) and (2) shall not be increased by any manufacturer except with the prior approval of the Government.

(4) Any manufacturer, who desires revision of the retail price of a formulation fixed under sub-paragraph (1), shall make an application to the Government in Form III or Form IV, as the case may be, and the Government shall after making such enquiry, as it deems fit within, a period of two months from the date of receipt of the complete formulation, fix a revised price for such formulation or reject the application for revision for reasons to be recorded in writing.

(5) Notwithstanding anything contained in the foregoing sub-paragraphs, the retail price of a Scheduled formulation of a manufacturer shall, until the retail price thereof is fixed under the provisions of this Order, be the price which prevailed immediately before the commencement of this

Order, and the manufacturer of such formulation shall not sell the formulation at a price exceeding the price prevailing immediately before the commencement of this Order.

(6) No manufacturer or importer shall market a new pack, if not covered under sub-paragraph 3 of para 9, or a new formulation or a new dosage form of his existing Scheduled formulation without obtaining the prior approval of its price from the Government.

(7) No person shall sell or dispose of any imported Scheduled formulation without obtaining the prior approval of its price from the Government.

9. Power to fix ceiling price of Scheduled formulations.—(1) Notwithstanding anything contained in this Order, the Government may, from time to time, by notification in the Official Gazette, fix the ceiling price of a Scheduled formulation in accordance with the formula laid down in paragraph 7, keeping in view the cost or efficiency, or both, of major manufacturers of such formulations and such price shall operate as the ceiling sale price for all such packs including those sold under generic name and for every manufacturer of such formulations.

(2) The Government may, either on its own motion or on application made to it in this behalf by a manufacturer in Form III or Form IV, as the case may be, after calling for such information as it may consider necessary, by notification in the Official Gazette, fix a revised ceiling price for a Scheduled formulation.

(3) With a view to enabling the manufacturers of similar formulations to sell those formulations in pack size different to the pack size for which ceiling price has been notified under the sub-paragraphs (1) and (2), manufacturers shall work out the price for their respective formulation packs in accordance with such norms, as may be notified by the Government, from time to time, and he shall intimate the price of formulation pack, so worked out, to the Government and such formulation packs shall be released for sale only after the expiry of sixty days after such intimation :

Provided that the Government may, if it considers necessary, by order revise the price so intimated by the manufacturer and upon such revision, the manufacturer shall not sell such formulation at a price exceeding the price so revised.

Explanation.—For the purpose of this paragraph for "Scheduled formulation" includes single ingredient formulation based on bulk drugs specified in the First Schedule and sold under the generic name.

10. Power to revise price of bulk drugs and formulations.—Notwithstanding anything contained in this Order,—

(a) the Government may, after obtaining such information as may be considered necessary from a manufacturer or importer, fix or revise the retail price of one or more formulations marked by such manufacturer or importer, including a non-Scheduled formulation, in such manner as the pre-tax return on the sales turnover of such manufacturer or importer does not exceed the maximum pre-tax return specified in the Third Schedule ;

(b) the Government may, if it considers necessary so to do in public interest, after calling for such information by order fix or revise the retail price of any formulation including a non-Scheduled formulation.

(c) the Government may, if it considers necessary so to do in public

interest, by order include any bulk drug in the First Schedule and fix or revise the prices of such a bulk drug and formulation containing such a bulk drug in accordance with the provisions of paragraphs 3, 7, 8 and 9, as the case may be.

11. **Fixation of price under certain circumstances.**—Where any manufacturer, importer of a bulk drug or formulation fails to submit the application for price fixation or revision, as the case may be, or to furnish information as required under this Order, within the time specified therein, the Government may, on the basis of such information as may be available with it, by order fix a price in respect of such bulk drug or formulation as the case may be.

12. **Power to recover dues accrued under the Drugs (Price Control) Order, 1979 and to deposit the same into the Drugs Prices Equalisation Account.**—(1) Notwithstanding anything contained in this Order, the Government may by notice, require the manufacturer, importer or distributor, as the case may be, to deposit the amount which has accrued under the provisions of the Drugs (Prices Control) Order, 1979 on or before the commencement of this Order, into the Drugs Prices Equalisation Account and the manufacturer, importer or distributor, as the case may be, shall deposit the said amount into the said Account within such time as the Government may specify in the said notice.

(2) The existing amount, if any, in the Drugs Prices Equalisation Account on or before the date of commencement of this Order, and the amount deposited under sub-paragraph (1) shall be utilised for,—

(a) paying to the manufacturer, importer or distributor, as the case may be, the shortfall between his retention price and the common selling price or, as the case may be, the pooled price for the purpose of increasing the production, or securing the equitable distribution and availability at fair prices of drugs ;

(b) meeting the expenses incurred by the Government in discharging the functions under this paragraph ; and

(c) promoting higher education and research in Pharmaceutical Sciences and Technology and for the purposes incidental thereto.

13. **Power to recover overcharged amount.**—Notwithstanding anything contained in this Order, the Government shall by notice, require the manufacturers, importers or distributors, as the case may be, to deposit the amount accrued due to charging of prices higher than those fixed or notified by the Government under the provisions of Drugs (Prices Control) Order, 1987 and under the provisions of this Order.

14. **Carrying into effect the price fixed or revised by the Government, its display and proof thereof.**—(1) Every manufacturer or importer shall carry into effect the price of a bulk drug or formulation, as the case may be, as fixed by the Government from time to time, within fifteen days from the date of notification in the Official Gazette or receipt of the order of the Government in this behalf by such manufacturer or importer.

(2) Every manufacturer, importer or distributor of a formulation intended for sale shall display in indelible print mark, on the label of container of the formulation and the minimum pack thereof offered for retail sale, the retail price of that formulation, notified in the Official Gazette or ordered by the Government in this behalf, with the words "retail price not

to exceed" preceding it, and "local taxes extra" succeeding it, in the case of Scheduled formulation :

Provided that in the case of a container consisting of smaller saleable packs, the retail price of such smaller pack shall also be displayed on the label of each smaller pack and such price shall not be more than the pro-rata retail price of the main pack rounded off to the nearest paisa.

(3) Every manufacturer or importer shall issue a price list and supplement price list, if required, in Form V to the dealers, State Drugs Controllers and the Government indicating reference to such price fixation or revision as covered by the order or Gazette notification issued by the Government, from time to time.

(4) Every retailer and dealer shall display the price list and the supplementary price list, if any, as furnished by the manufacturer or importer, on a conspicuous part of the premises where he carries on business in a manner so as to be easily accessible to any person wishing to consult the same.

15. **Display of prices of non-Scheduled formulations and price list thereof.**—(1) Every manufacturer, importer or distributor of a non-Scheduled formulation intended for sale shall display in indelible print mark, on the label of container of the formulation and the minimum pack thereof offered for retail sale, the retail price of that formulation with the words "maximum retail price" preceding it and the words "inclusive of all taxes" succeeding it :

Provided that in the case of a container consisting of smaller saleable packs, the retail price of such smaller pack shall also be displayed on the label of each smaller pack and such price shall not be more than the pro-rata retail price of the main pack rounded off to the nearest paisa.

(2) Every manufacturer or importer shall issue a price list and supplementary price list, if required, of the non-Scheduled formulations in Form V to the dealers, State Drugs Controllers and the Government indicating changes, from time to time.

(3) Every retailer and dealer shall display the price list and the supplementary price list, if any, as furnished by the manufacturer or importer, on a conspicuous part of the premises where he carries on business in a manner so as to be easily accessible to any person wishing to consult the same.

16. **Control of sale prices of bulk drugs and formulations.**—No person shall sell any bulk drug or formulation to any consumer at a price exceeding the price specified in the current price list or price indicated on the label of the container or pack thereof, whichever is less, plus excise duty and all local taxes, if any, payable in the case of Scheduled formulations and maximum retail price inclusive of all taxes in the case of non-Scheduled formulations.

17. **Sale of split quantities of formulations.**—No dealer shall sell loose quantity of any formulation at a price which exceeds the pro-rata price of the formulation plus 5 per cent thereof.

18. **Manufacturer, distributor or dealer not to refuse sale of drug.**—Subject to the provisions of the Drugs and Cosmetics Act, 1940 (23 of 1940) and the Rules framed thereunder,—

(a) no manufacturer or distributor shall withhold from sale or refuse to sell to a dealer any drug without good and sufficient reasons ;

(b) no dealer shall withhold from sale or refuse to sell any drug

available with him to a customer intending to purchase such drug.

19. **Price of formulations sold to the dealer.**—(1) A manufacturer, distributor or wholesaler shall sell a formulation to a retailer, unless otherwise permitted under the provisions of this Order or any order made thereunder, at a price equal to the retail price, as specified by an order or notified by the Government (excluding excise duty, if any), minus sixteen per cent thereof in the case of Scheduled drugs.

(2) Notwithstanding anything contained in sub-paragraph (1), the Government may by a general or special order fix, in public interest, the price of formulation sold to the wholesaler or retailer in respect of any formulation the price of which has been fixed or revised under this Order.

20. **Maintenance of records and production thereof for inspection.**—(1) Every manufacturer and importer shall maintain in such form as may be specified by the Government, records relating to the sales turnover of individual bulk drugs manufactured or imported by him, as the case may be, and the sales turnover of formulations pack-wise and also such other records as may be directed from time to time by the Government and the Government shall have the power to call for such records or to inspect such records at the premises of the manufacturer or importer.

(2) Every manufacturer or importer shall, within six months of the close of the accounting year, submit to the Government information in respect of turnover and allocation of sales and expenses for that year in Form VI.

(3) Every dealer, manufacturer or importer shall maintain the cash memo or credit memo, books of of account and records of purchase and sale of drugs and shall make available such records for inspection by the Government or any officer authorised in this behalf by the Government.

21. **Power of entry, search and seizure.**—(1) Any Gazetted Officer of the Central Government or of a State Government authorised by a general or special order by the Central Government or, as the case may be, by the State Government in this behalf may, with a view to securing compliance with this Order or to satisfy him self that the provisions of this Order have been complied with,—

(a) enter and search any place ;

(b) seize any drug, along with the containers, packages or coverings in which the drug is found, in respect of which he suspects that any provision of this Order has been, is being, or is about to be contravened, and thereafter take all measures necessary for securing production of the drug, containers, packages or coverings, so seized, in a court of law and for their safe custody pending such production ;

(c) seize any document, such as, cash memo or credit memo books, book of account and records of purchase and sale of the drugs in respect of which he suspects that any provision of this Order has been, is being, or is about to be contravened.

(2) The provision of Section 100 of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure shall, so far as may be, apply to searches and seizures under this Order.

22. **Power to review.**—Any person aggrieved by any notification issued or order made under paragraphs 8, 6, 8, 9 or 10 may apply to the Government for a review of the notification or order within fifteen days of the date

(iii) the procedure to be followed by the members of the Central Supervisory Board in the discharge of their functions under sub-section (4) of section 8.

(iv) allowances for members other than ex officio members admissible under sub-section (5) of section 8.

(v) the period intervening between any two meetings of the Advisory Committee under the proviso to sub-section (8) of section 17.

(vi) the terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee under sub-section (9) of section 17 ;

(vii) the form and manner in which an application shall be made for registration and the fee payable thereof under sub-section (2) of section 18 ;

(viii) the facilities to be provided, equipment and other standards to be maintained by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under sub-section (5) of section 18.

(ix) the form in which a certificate of registration shall be issued under sub-section (3) of section 18 ;

(x) the manner in which and the period after which a certificate of registration shall be renewed and the fee payable for such renewal under sub-section (3) of section 19 ;

(xi) the manner in which an appeal may be preferred under section 21 ;

(xii) the period upto which records, charts etc., shall be preserved under sub-section (1) of section 29 ;

(xiii) the manner in which the seizure of documents, records, objects etc., shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody such documents, records or objects were seized under sub-section (1) of section 30 ;

(xiv) any other matter that is required to be, or may be prescribed.

33. Power to make regulations.—The Board may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for—

(a) the time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form the quorum under sub-section (1) of section 9 ;

(b) the manner in which a person may be temporarily associated with the Board under sub-section (1) of section 11 ;

(c) the method of appointment, the conditions of service and the scales of pay and allowances of the officer and other employees of the Board appointed under section 12 ;

(d) generally for the efficient conduct of the affairs of the Board.

34. Rules and regulations to be laid before Parliament.—Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions afore-

said, both the Houses agree in making any modification in the rule or regulation or both the Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

THE NEW DELHI MUNICIPAL COUNCIL ACT, 1994

The following Act of Parliament received the assent of the President on the 14th July, 1994, and was published in the Gazette of India, Extraordinary, Part II, Section 1, dated July 14, 1994.

INDIAN PARLIAMENT ACT NO. 44 OF 1994

An Act to provide of the establishment of the New Delhi Muhicipal Council and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fifth Year of the Republic of India as follows :—

CHAPTER I
Preliminary

1. **Short title, extent and commencement.**—(1) This Act may be called the New Delhi Municipal Council Act, 1994.

(2) It extends to New Delhi.

(3) It shall be deemed to have come into force on the 25th day of May, 1994.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(1) "Administrator" means the Administrator of the National Capital Territory of Delhi ;

(2) "Appellate Tribunal" means an Appellate Tribunal constituted under section 253 ;

(3) "budget-grant" means the total sum entered on the expenditure side of a budget estimate under a major head and adopted by the Council and includes any sum by which such budget-grant may be increased or reduced by transfer from or to other heads in accordance with the provisions of the Act and the regulations made thereunder ;

(4) "building" means a house, out-house, stable, latrine, urinal, shed, hut, wall (other than a boundary wall) or any other structure, whether of masonary, bricks, wood, mud, metal or other material but does not include any portable shelter ;

(5) "bye-law" means bye-law made under this Act, by notification in the Official Gazette ;

(6) "casual vacancy" means a vacancy occurring otherwise than by efflux of time in the office of member of the Council ;

(7) "Chairperson" means the Chairperson of the Council ;

(8) "Corporation" means the Municipal Corporation of Delhi established under the Delhi Municipal Corporation Act, 1957 (66 of 1957) ;

(9) "Council" means the New Delhi Municipal Council established under this Act ;

(10) "dangerous disease" means—

(a) cholera, plague, chicken-pox, small-pox, tuberculosis, leprosy, enteric fever, cerebrospinal meningitis and diptheria ; and

(b) any other epidemic, endemic or infectious disease which the Chairperson may, by notification in the Official Gazette, declare to be a dangerous disease for the purposes of this Act ;

(11) "Delhi" means the entire area in the National Capital Territory of Delhi except New Delhi and Delhi Cantonment as defined in clause (11) of section 2 of the Delhi Municipal Corporation Act, 1957 (66 of 1957) ;

(12) "drain" includes a sewer, a house drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sewerage, offensive matter, polluted water, waste water, rain water or sub-soil water ;

(13) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are ordinarily admitted on payment ;

(14) "factory" means a factory as defined in the Factories Act, 1948 (63 of 1948) ;

(15) "filth" includes offensive matter and sewerage ;

(16) "goods" includes animals ;

(17) "Government" means the Government of the National Capital Territory of Delhi ;

(18) "house-gully" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as or carrying a drain or affording access to a latrine, urinal, cesspool or other receptacle for filth or other polluted matter, by municipal employee or other person employed in the cleansing thereof or in the removal of such matter therefrom ;

(19) "hut" means any building which is constructed principally of wood, bamboo, mud, leaves, grass, cloth or thatch and includes any structure of whatever material made which the Council may declare to be hut for the purposes of this Act ;

(20) "inhabitant" in relation to the municipal area of New Delhi includes any person ordinarily residing or carrying on business or owning or occupying immovable property therein and in case of a dispute, means any person or persons declared by the Chairperson to be an inhabitant ;

(21) "land" includes benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by law over the street ;

(22) "licensed engineer" and "licensed plumber" mean respectively a person licensed under the provisions of this Act as an engineer and a plumber ;

(23) "market" any place where persons assemble for the sale of, or for the purpose of exposing for sale, meat, fish, fruits, vegetables, animals intended for human consumption or any other articles of human food whatsoever, with or without the consent of the owner of such place notwithstanding that there may be no common regulation of the con-course of buyers and sellers and whether or not any control is exercised over the business of, or the person frequenting, the market by the owner of the place or by any other person ;

(24) "member", in relation to the Council, means a member of the Council and includes the Chairperson ;

(25) "municipal market" means a market vested in or managed by Council ;

(26) "municipal water works" means water works vested in the

Council ;

(27) "New Delhi" means the area within the boundaries described in the First Schedule ;

(28) "naisance" includes any act, omission, place, animal or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep, or which is or may be dangerous to life or injurious to health or property ;

(29) "occupier" includes—

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable ;

(b) an owner in occupation of or otherwise using his land or building ;

(c) a rent-free tenant of any land or building ;

(d) a licensee in occupation of any land or building ; and

(e) any person who is liable to pay to the owner damages for the use and occupation of any land or building ;

(30) "offensive matter" includes animal carcasses, kitchen or stable refuse, dung, dirt and putrid or putrefying substances other than sewerage ;

(31) "Official Gazette" means the Official Gazette of the National Capital Territory of Delhi ;

(32) "owner" includes a person who for the time being is receiving or is entitled to receive, the rent of any land or building whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other person or who should so receive the rent or be entitled to receive it if the land or building or part thereof were let to a tenant and also includes

(a) the custodian of evacuee property in respect of evacuee property vested in him under the Administration of Evacuee Propeiry Act, 1950 (31 of 1950) ; and

(b) the estate officer to the Government of India, the Secretary of the Delhi Development Authority, constituted under the Delhi Development Act, 1957 (11 of 1957), the General Manager of a railway and the head of a Government department, in respect of properties under their respective control ;

(33) "premises" means any land or building or part of a building and includes—

(a) the garden, ground and out-houses, if any, appertaining to a building or part of a building, and

(b) any fittings affixed to a building or part of a building for the more beneficial enjoyment thereof ;

(34) "prescribed" means prescribed by rules made under this Act ;

(35) "private market" means a market which is not a municipal market ;

(36) "private street" means any street, which is not a public street and includes any passage securing access to two or more places belonging to the same or different owners ;

(37) "public place" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not ;

(38) "public securities" means any securities of the Central Govern-

ment or a State Government or any securities guaranteed by the Central Government or a State Government or any securities issued under this Act or any debentures issued by the Bombay, Calcutta, Delhi or Madras Municipal Corporation ;

(39) "public street" means any street which vests in the Council as a public street or the soil below the surface of which vests in the Council or which under the provisions of this Act becomes, or is declared to be, a public street ;

(40) "railway administration" has the meaning assigned to it in the Railways Act, 1989 (24 of 1989) ;

(41) "rate payer" means a person liable to pay any rate, tax, cess or licence fee under this Act ;

(42) "rateable value" means the value of any land or building fixed in accordance with the provisions of this Act and the bye-laws made thereunder for the purpose of assessment of property taxes ;

(43) "regulation" means a regulation made by the Council under this Act by notification in the Official Gazette ;

(44) "reside",—

(a) a person shall be deemed to "reside" in any dwelling-house which or some portion of which he sometimes, although not uninterruptedly, uses as a sleeping apartment, and

(b) a person shall not be deemed to cease to "reside" in any such dwelling-house merely because he is absent from it or has elsewhere another dwelling-house in which he resides, if there is the liberty of returning to it any time and no abandonment of the intention of returning to it ;

(45) "rubbish" includes ashes, broken bricks, broken glass, dust, malba, mortar and refuse of any kind which is not filth ;

(46) "rule" means a rule made by the Central Government under this Act by notification in the Official Gazette ;

(47) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed to be Scheduled Castes under article 341 of the Constitution ;

(48) "service passage" or "lane" or "bye-lane" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as or carrying a drain or electricity cable (underground or over-head) and any electrical and other allied installations or any other civic services by municipal employees or other person employed in the service thereof ;

(49) "sewage" means night-soil and other contents of latrines, urinals, cesspools or drains, and polluted water from sinks, bath-rooms, stables, cattle sheds and other like places and includes trade effluents and discharges from factories of all kinds ;

(50) "shed" means a slight or temporary structure for shade or shelter ;

(51) "street" includes any way, road, lane, square, court, alley, gully, passage, whether a thoroughfare or not and whether built upon or not, over which the public have a right of way and also the roadway or footway over any bridge or causeway ;

(52) "trade effluent" means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, and in

relation to any trade premises means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but does not include domestic sewage ;

(53) "trade premises" means any premises used or intended to be used for carrying on any trade or industry ;

(54) "trade refuse" means the refuse of any trade or industry ;

(55) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, cycle-rickshaw, auto-rickshaw, motor vehicle and every wheeled conveyance which is used or is capable of being used on a street ;

(56) "water course" includes any river, streams or channel whether natural or artificial ;

(57) "water works" includes all lakes, tanks, streams, any river, cisterns, springs, pumps, wells, reservoirs, aqueducts, water trucks, sluices, mains, pipes, culverts, hydrants, stand-pipes and conduits and all lands, buildings, machinery bridges and things, used for, or intended for the purpose of, supplying water ;

(58) "workshop" means any premises (including the precints thereof) other than a factory, wherein any industrial process is carried on ;

(59) "year" means a year commencing on the 1st day of April.

CHAPTER II

The Council

Constitution of the Council

3. Establishment of the Council.—(1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be a Council charged with the municipal government of New Delhi, to be known as the New Delhi Municipal Council.

(2) The Council shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and may by the said name sue and be sued.

4. Composition of the Council.—(1) The Council shall consist of the following members, namely :—

(a) a Chairperson, from amongst the officers, of the Central Government or the Government, of or above the rank of Joint Secretary to the Government of India to be appointed by the Central Government in consultation with the Chief Minister of Delhi ;

(b) three members of Legislative Assembly of Delhi representing constituencies which comprise wholly or partly the New Delhi area ;

(c) five members from amongst the officers of the Central Government or the Government or their undertakings, to be nominated by the Central Government ; and

(d) two members to be nominated by the Central Government in consultation with the Chief Minister of Delhi to represent from amongst lawyers, doctors, chartered accountants, engineers, business and financial consultants, intellectuals, traders, labourers, social workers including social scientists, artists, media persons, sports persons and any other class of persons as may be specified by the Central Government in this behalf.

(2) The Member of Parliament, representing constituency which comprises wholly or partly the New Delhi area, shall be a special invitee for the meetings of the Council but without a right to vote.

(3) Out of the eleven members referred to in sub-section (1), there shall be at least three members who are women and one member belonging to the Scheduled Castes.

(4) The Central Government shall nominate, in consultation with the Chief Minister of Delhi, a Vice-Chairperson from amongst the members specified in clauses (b) and (d) of sub-section (1).

5. Duration of the Council.—(1) The Council, unless sooner dissolved under section 398 or any other law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) The Council,—

(a) where it is dissolved before the expiry of its duration under sub-section (1), shall be reconstituted within a period of six months of such dissolution ; and

(b) where it is dissolved after the expiry of its duration, shall be reconstituted before such expiry.

6. Disqualification for membership of the Council.—(1) No person, other than a member of the Legislative Assembly of the National Capital Territory of Delhi, shall be disqualified for being nominated as a member of the Council on the ground that he holds an office of profit for purposes of election to the legislature of the National Capital Territory of Delhi under any law for the time being in force.

(2) If a person sits or votes as a member of the Council when he knows that he is not qualified or that he is disqualified for such membership, he shall be liable in respect of each day on which he so sits or votes to a penalty of three hundred rupees to be recovered as an arrear of tax under this Act.

Members

7. Oath or affirmation.—(1) Every member before taking his seat shall make and subscribe at a meeting of the Council an oath or affirmation according to the following form, namely :—

"I, A. B.' having been nominated as a member of the Council do swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will faithfully discharge the duty upon which I am about to enter.".

(2) If a person sits or votes as a member before he has complied with the requirements of sub-section (1), he shall be liable in respect of each day on which he sits or votes, as the case may be, to a penalty of three hundred rupees to be recovered as arrears of tax under this Act.

8. Vacation of seat.—(1) If a member resigns his seat by writing under his hand addressed to the Chairperson and delivered to him, his seat shall thereupon becomes vacant.

(2) If during three successive months, a member is without permission of the Council, absent from all the meetings thereof, the Council may recommend to the Central Government that the seat of such member may be declared vacant.

Committees of the Council

9. Setting-up of Committees.—(1) The Council may constitute as many committees as it thinks fit for the exercise of any power or dischage of any function which the Council may by resolution delegate to them or

for inquiring into, reporting or advising upon any matter which the Council may refer to them.

(2) Any such committee shall consist of members of the Council only :

Provided that a committee may, with the sanction of the Council, co-opt not more than two persons who are not members of the Council, but who in the opinion of the Council possesses special qualification for serving on such committee.

(3) Each committee constituted under this section shall be presided by the Chairperson of the Council.

(4) Any matter relating to a committee constituted under this section, not expressly provided in this Act may be provided by regulation made in this behalf.

CHAPTER III
Functions of the Council

10. General powers of the Council.—(1) Subject to the provisions of the Act and the rules, regulations and bye-laws made thereunder the Municipal Government of New Delhi shall vest in the Council.

(2) Without prejudice to the generality of the provisions of sub-section (1), it shall be the duty of the Council to consider all periodical statements of the receipts and documents and all progress reports and pass such resolutions thereon as it thinks fit.

(3) The Council may at any time require the Chairperson—

(a) to produce any record, correspondence, plan or other document which is in his possession or under his control as Chairperson or which is recorded or filed in his office or in the office of any municipal officer or other municipal employee subordinate to him.

(b) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter pertaining to the administration of this Act or the municipal government of New Delhi.

(c) to furnish a report by himself or to obtain from the head of any department subordinate to him and furnish with his own remarks thereon, a report, upon any subject concerning or connected with the administration of this Act or the municipal government of New Delhi.

(4) Every such requisition shall be complied with by the Chairperson without any unreasonable delay ; and it shall be incumbent on every municipal officer and other municipal employee to obey any order made by the Chairperson in pursuance of any such requisition :

Provided that the Chairperson shall not be bound to comply with any such requisition of with the previous approval of the Administrator he makes a statement that such compliance would be prejudicial to public interest or to the interests of the Council.

11. Obligatory functions of the Council.—Subject to the provisions of this Act and any other law for the time being in force, it shall be incumbent on the Council to make adequate provisions by any means or measures which it may lawfully use or take, for each of the following matters, namely :—

(a) the construction, maintenance and cleansing of drains and drainage works and of public latrines, urinals and similar conveniences ;

(b) the construction and maintenace of works and means for provid-

ing supply of water for public and private purposes ;

(c) the scavenging, removal and disposal of filth, rubbish and other obnoxious or polluted matters ;

(d) the construction or purchase, maintenance, extension, management for—

(i) supply and distribution of electricity to the public ;

(ii) providing a sufficient supply of pure and wholesome water ;

(e) the reclamation of unhealty localities, the removal of noxious vegetation and generally the abatement of all nuisances ;

(f) the regulation of places for the disposal of the dead and the provision and maintenance of places for the said purpose ;

(g) the registration of births and deaths ;

(h) public vaccination and inoculation ;

(i) measures for preventing and checking the spread of dangerous diseases ;

(j) the establishment and maintenance of hospitals, dispensaries and maternity and child welfare centres and the carrying out of other measures necessary for public medical relief ;

(k) the construction and maintenance of municipal markets and regulation of all markets ;

(m) the securing or removal of dangerous buildings and places ;

(n) the construction, maintenance, alteration and improvements of public streets, bridges, culverts, causeways and the like ;

(o) the lighting, watering and cleansing of public streets and other public places ;

(p) the removal of obstructions and projections in or upon streets, bridges and other public places ;

(q) the naming and numbering of streets and premises ;

(r) the establishment, maintenance of, and aid to, schools for primary education subject to such grants as may be determined by the Central Government from time to time ;

(s) the maintenance of municipal offices ;

(t) the laying out or the maintenance of public parks, gardens or recreation grounds ;

(u) the maintenance of monuments and memorials vested in any local authority in New Delhi immediately before the commencement of this Act or which may be vested in the Council after such commencement ;

(v) the maintenace and development of the value of all properties vested in or entrusted to the management of the Council ;

(w) the preparation of plans for economic development and social justice ;

(x) the maintenance including the expansion and upgradation of facilities of the hospitals existing on the date of the commencement of this Act ;

(y) sanction or refuse erection or re-erection of buildings ; and

(z) the fulfilment of any other obligation imposed by or under this Act or any other law for the time being in force.

12. Discretionary functions of the Council.—Subject to any general or special order of the Government, or the Central Government from time to time, the Council may provide either wholly or in part for all or any of the

following matters, namely :—

(a) the furtherance of education including cultural and physical education, by measures other than the establishment and maintenance of, and aid to, schools for primary education ;

(b) the establishment and maintenance of, and aid to, libraries, museum , art gallaries, botanical or zoological collections ;

(c) the establishment and maintenance of, and aid to, stadia, gymnasia, akhra and places for sports and games ;

(d) the planning and care of trees on roadsides and elsewhere ;

(e) the surveys of buildings and lands ;

(f) the registration of marriages ;

(g) the taking of a census of population ;

(h) the provision of housing accommodation for the inhabitants of any area or for any class of inhabitants ;

(i) the providing of music or other entertainments in public places or places of public resort and the establishment of theatres and cinemas ;

(j) the organisation and management of fairs and exhibitions ;

(k) the acquisition of movable or immovable property for any of the purpose before mentioned, including payment of the cost of investigations, surveys or examinations in relation thereto for the construction or adaptation of building necessary for such purposes ;

(l) the construction and maintenance of—

(i) rest-hours,

(ii) poor-houses,

(iii) infirmaries,

(iv) children's homes,

(v) houses for the deaf and dumb and for disabled and handicapped children,

(vi) shelters for destitute and disabled persons,

(vii) asylums for persons of unsound mind,

(m) the construction and maintenance of cattle grounds ;

(n) the building or purchase and maintenance of dwelling-houses for municipal officers and other municipal employees ;

(o) any measures for the welfare of the municipal officers and other municipal employees or any class of them including the sanctioning of loans to such officers and employees or any class of them for construction of houses and purchase of vehicles ;

(p) the organisation or management of chemical and bacteriological laboratories for the examination or analysis of water, food and drugs for the detection of diseases or research connected with the public health or medical relief ;

(q) the provision for relief to destitute and disabled persons ;

(r) the establishment and maintenance of veterinary hospitals ;

(s) the organisation, construction, maintenance and management of swimming pools, public wash houses, bathing places and other institutions designed for the improvement of public health ;

(t) the organisation and management of farms and dairies within or without New Delhi for the supply, distribution and processing of milk and milk products for the benefits of the residents of New Delhi ;

(u) the organisation and management of cottage industries, handi-

craft centers and sales emporia ;

(v) the construction and maintenance of warehouses and godowns ;

(w) the construction and maintenance of garages, sheds and stands for vehicles and cattle biers ;

(x) the provision for unfiltered water supply ;

(y) the improvement of New Delhi in accordance with improvement schemes approved by the Council ;

(z) any measure not hereinbefore specifically mentioned, likely to promote public safety, health, convenience or general welfare.

CHAPTER VI
The Chairperson

13 Appointment, etc., of the Chairperson.—(1) The Central Government shall, by notification in the Official Gazette, appoint a suitable person as the Chairperson of the Council in accordance with the clause (a) of sub-section (1) of section 4.

(2) The Chairperson so appointed shall hold office for a term of five years in the first instance :

Provided that his appointment may be renewed from time to time for a term not exceeding one year at a time :

Provided further that where the Chairperson holds a lien on any service under the Central Government or the Government, the Central Government may at any time after reasonable notice to the Council place his services at the disposal of the concerned Government.

(3) The Central Government may remove the Chairperson from office at any time if it appears to that Government that he is incapable of performing the duties of his office or has been guilty of neglect or misconduct in the discharge of such duties, which renders his removal expedient.

(4) The Chairperson shall not undertake any work unconnected with his office without the sanction of the Central Government and of the Council.

14. Leave of absence of Chairperson.—(1) Leave may be granted to the Chairperson by the Administrator.

(2) Whenever such leave is granted to the Chairperson, the Central Government shall appoint another person to officiate as Chairperson in his place.

15. Appointment of officiating Chairperson in case of death, resignation or removal of Chairperson.—If any vacancy occurs in the office of Chairperson on account of death, resignation or removal, the Central Government shall appoint another person to officiate as Chairperson in his place for a term not exceeding two months, pending the appointment of a Chairperson under section 13.

16. Salary and allowances of the Chairperson and members.—(1) The Chairperson shall be paid out of the New Delhi Municipal Fund constituted under section 44 such monthly salary and such monthly allowances, if any, as may from time to time be fixed by the Central Government and may be given such facilities, if any, in relation to residential accommodation, conveyance and the like as may from time to time be fixed by the Government :

Provided that the salary of the Chairperson shall not be varied to his disadvantage after his appointment.

(2) The members shall be entitled to receive allowances for attendance at meeting of Council and of any of its committees at such rates as may be determined by rules made in this behalf.

17. **Service regulations of members.**—If a member is an officer in the service of the Government or the Central Government, the Council shall make such contribution towards his leave allowances, pension and provident fund as may be required by the conditions of his service under the Government or the Central Government to be paid by him or for him, as the case may be.

18. **Functions of the Chairperson.**—Save as otherwise provided in this Act the entire executive power for the purpose of carrying out the provisions of this Act and of any other Act for the time being in force which confers, any power or imposes any duty on the Council, shall vest in the Chairperson who shall also—

(a) exercise all the powers and perform all the duties specifically conferred or imposed upon him by this Act or by any other law for the time being in force ;

(b) prescribe the duties of and exercise supervision and control over the acts and proceedings of, all municipal officers and other municipal employees and subject to any regulation that may be made in this behalf, dispose of all questions relating to the service of the said officers and other employees and their pay, privileges, allowances and other conditions of service ;

(c) on the occurrence or threatened occurrence of any sudden accident or any unforseen event or natural calamity involving or likely to involve extensive damage to any property of the Council, or danger to human life, take such immediate action as he considers necessary and make a report forthwith to the Council and the Administrator of the action he has taken and the reason for the same as also of the amount of cost, if any, incurred or likely to be incurred in consequence of such action, which is not covered by a budget-grant ; and

(d) subject to any regulation that may be made in this behalf, be the disciplinary authority in relation to all municipal officers and other municipal employees.

19. **Chairperson not to be interested in any contract, etc. with the Council.**—(1) A person shall be disqualified for being appointed as the Chairperson who has directly or indirectly, by himself or by a partner or any other person, any share or interest in any contract made with, or any work being done for, the Council other than as such Chairperson.

(2) If the Chairperson acquires directly or indirectly, by himself or by his partner, or any other person, any share or interest in any such contract or work as is referred to in sub-section (1), he shall, unless the Central Government in any particular case otherwise decides, be liable to be removed from his office by the order of the authority competent to remove him under the provisions of this Act :

Provided that before an order of removal is made the Chairperson shall be given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

20. **Exercise of powers to be subject to sanction.**—Save as otherwise provided in this Act, the exercise of any power or the performance of any

duly conferred or imposed upon the Council by or under this Act which will involve expenditure, shall be subject to the following conditions, namely :—

(a) that such expenditure, in so far as it is to be incurred in the year in which such power is exercised or duty performed, shall be provided for under a current budget-grant ; and

(b) that if the exercise of such powers or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said year, such expenditure shall not be incurred without the sanction of the Council.

CHAPTER V
PROCEDURE
Transaction of Business by the Council

21. **Meetings.**—(1) The Council shall ordinarily hold at least one meeting in every month for the transaction of business.

(2) The Chairperson and in his absence the Vice Chairperson may, whenever he thinks fit, and shall upon a requisition in writing by not less than one-fourth of the total number of members, convene a special meeting of the Council.

(3) Any meeting may be adjourned till the next or any subsequent date, and an adjourned meeting may be further adjourned in like manner.

22. **First meeting of the Council.**—The first meeting of the Council shall be held as early as possible and shall be convened by the Administrator.

23. **Notice of meetings and business.**—A list of the business to be transacted at every meeting except at an adjourned meeting shall be sent to the address of each member at least seventy-two hours before the time fixed for such meeting ; and no business shall, except where the Chairperson otherwise directs, be brought before, or tranacted at, in any meeting other than the business of which a notice has been so given :

Provided that any member may send or deliver to the Secretary notice of any resolution going beyond the matters mentioned in the notice given of such meeting so as to reach him at least fourty-eight hours before the date fixed for the meeting and the Secretary shall, with all possible despatch take steps to circulate such resolution to every member in such manner as he may think fit.

24. **Quorum.**—(1) The quorum necessary for the transaction of business at a meeting of the Council shall be prescribe by the Central Government.

(2) If at any time during a meeting of the Council, there is no quorum it shall be the duty of the Chairperson or the person presiding over such meeting either to adjourn the meeting or to suspend the meeting until there is a quorum.

(3) Where a meeting has been adjourned under sub-section (2), the business which would have been brought before the original meeting if there had been a quorum present thereat, shall be brought before, and may be transacted at an adjourned meeting, whether there is a quorum present or not.

25. **Presiding Officer.**—(1) The Chairperson or in his absence, the

Vice-Chairperson, or in the absence of both, such other member present as is decided by the Council shall preside at every meeting of the Council.

(2) The Chairperson or the person presiding over a meeting shall have and exercise a second or a casting vote in all cases of equality of votes.

26. Method of deciding questions.—(1) Save as otherwise provided in this Act, all matters required to be decided by the Council shall be decided by the majority of votes of the members present and voting.

(2) The voting shall be by show of hands, but the Council may, subject to such regulations as may be made by it, resolve that any question or class of question shall be decided by ballot.

27. Members not to vote on matter in which they are interested.—No member shall vote at a metting of the Council or of any Committee thereof on any question relating to his own conduct or vote or take part in any discussion on any matter (other than a matter affecting generally the residents of New Delhi) which affect his pecuniary interest or any property in respect of which he is directly or indirectly interested, or any property of or for which he is a manager or agent.

28. Right to attend meetings of Council and its committees, etc. and right of members and to ask questions in relation to the municipal government of New Delhi.—(1) Any municipal officer authorised by Chairperson in this behalf may attend, speak in, or otherwise take part in the proceedings of, any meeting of the Council or any of its Committees, but none of the persons specified herein shall by virture of this sub-section be entitled to vote in any such meeting.

(2) A member may, subject to the provisions of sub-section (3), ask the Chairperson questions on any matter relating to the municipal government of New Delhi or the administration of this Act in any meeting of the Council.

(3) The right to ask a question shall be governed by the following conditions, namely :—

(a) not less than seven clear days' notice in writing specifying the question shall be given to the Secretary ;

(b) no question shall—

(i) bring in any name or statement not strictly necessary to make the question intelligible,

(ii) contain argument, ironical expressions, imputations, epithets or defamatory statements,

(iii) ask for an expression of opinion or the solution of a hypothetical proposition,

(iv) ask as to the character or conduct of any person except in his official or public capacity,

(v) relate to a matter which is not primarily the concern of the Council,

(vi) make or imply a charge of a personal character,

(vii) raise questions of policy too large to be dealt with within the limits of an answer to a question.

(viii) repeat in substance questions already answered or to which an answer has been refused,

(ix) ask for information on trivial matters,

(x) ordinarily ask for information on matters of past history.

(xi) ask for information set forth in accessible documents or in ordinary works of reference,

(xii) raise matters under the control of bodies or persons not primarily responsible to the Council.

(xiii) ask for any information on matter which is under adjudication by a court of law.

(4) The Chairperson shall not be bound to answer a question if it asks for information which has been communicated to him in confidence or if in the opinion of the Chairperson it cannot be answered without prejudice to public interest or the interest of the Council.

(5) The Council may make regulations for the transaction of business at its meetings :

Provided that the time, place and procedure for the first meeting after the constitution of the Council under sectiod 4 shall be determined by the Administrator.

29. Keeping of minutes and proceedings.—Minutes in which shall be recorded the names of the members present at, and the proceedings of each meeting of the Council, and every other committee constituted under sub-section (1) of section 9 shall be drawn up and recorded in a book to be kept for that purpose, and shall be laid before the next ensuing meeting of the Council, or of such committee, as the case may be, and signed at such meeting by the presiding officer thereof.

30. Circulation of minutes and inspection of minutes and reports of proceedings.—(1) Minutes of the rpoceedings of each meeting of the Council shall be circulated to all the members and shall at reasonable times be available at the municipal office for inspection by any other person on payment of a fee of two rupees.

(2) Full reports, if any, of such proceedings shall similarly be available for inspection, by any member without charge and by any other person on payment of a fee of two rupees.

31. Forwarding minutes and reports of proceedings to the Administrator.—(1) The Secretary shall forward to the Administrator a copy of the minutes of the proceedings of each meeting of the Council, within ten days from the date on which the minutes of the proceedings of such meeting were signed under section 29.

(2) The Administrator may also in any case ask for a copy of any paper or all the papers which were laid before the Council or any committee thereof and the Secretary shall forward to the Administrator a copy of such paper or papers.

(3) The Secretary shall also forward to the Administrator as soon as may be after the date referred to in sub-section (1) a full report of the proceedings of each meeting of the Council, if any such report be prepared.

Validation

32. Validation of proceedings, etc.—(1) No act done or proceedings taken under this Act shall be questioned on the ground namely of—

(a) the seat of any member remaining unfilled from any cause whatsoever ;

(b) the existence of any vacancy in, or any defect in the constitution of, the Council or in any committee thereof ;

(c) any member having voted or taken part in any proceedings in

contravention of section 27 ;

(d) any defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Council or of any committee thereof, the minutes of the proceeding of which have been duly drawn up and signed shall be deemed to have been duly convened and to be free from all defects and irregularities.

CHAPTER VI

Municipal Officers and other Municipal Employees

33. Appointment of certain officers.—(1) The Council shall appoint suitable persons to be the Secretary and Chief Auditor of the Council, and such other officer or officers as the Council may deem fit on such monthly salaries and such allowances, if any, as may be fixed by the Council :

Provided that the Chief Auditor shall not be eligible for any other office under the Council after he has ceased to hold this office.

(2) The appointment of the Secretary and the Chief Auditor shall be made with the previous approval of the Administrator.

34. Schedule of permanent posts and creation of temporary posts.—(1) The Chairperson shall from time to time prepare and lay before the Council a Schedule of category 'A' and category 'B' posts other than the posts of Secretary and Chief Auditor specified in section 33, setting forth the designations and grades of municipal officers and other municipal employees who should be maintained permanently in the service of the Council indicating therein the salaries, fees and allowances which are proposed to be paid to such officers and other employees.

(2) The Council shall approve and sanction the Schedule either without modifications or with such modifications as it thinks fit or may amend it either on its own motion or otherwise.

(3) The Chairperson may create any category 'B', or category 'C', or category 'D' post and for a period not exceeding six months any category 'A' post :

Proxided that no such category 'A' post shall be beyond the said period without the previous approval of the Council.

(4) In this section and in section 36—

(i) "category 'A' post" means any post, which having regard to its scale of pay or emoluments, would, if such post had been in the Central Government, be classified as a Group 'A' post under the Central Government in accordance with the orders issued by that Government from time to time ;

(ii) "category 'B' post" means any post which having regard to its scale of pay or emoluments, would, if such post had been in the Central Government, be classified as a Group 'B' post under the Central Government in accordance with the orders issued by that Government from time to time ;

(iii) "category 'C' posts" means any post, which having regard to its scale of pay or emoluments would, if such post had been in the Central Government, be classified as a Group 'C' post under the Central Government, in accordance with the orders issued by that Government from time to time ;

(iv) "category 'D' posts" means any post, other than a category 'A' or category 'B' or category 'C' post.

35. **Restriction on employment of permanent officers and other employees.**—No permanent officer or other employee shall be entertained in any department of the municipal administration unless he has been appointed under sub-section (1) of section 33 or his office and emoluments are included in the Schedule for the time being in force prepared and sanctioned under section 34 or is appointed against a permanent post under section 36.

36. **Power to make appointments.**—(1) Subject to the provisions of section 33, the power of appointing municipal officers and other municipal employees, whether temporary or permanent;—

(a) to category 'A', category 'B' and category 'C' posts, shall vest in the Chairperson ; and

(b) to category 'D' posts shall vest in the Secretary.

(2) The claims of the members of the Scheduled Castes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments of municipal officers and other municipal employees.

37. **Officers and other employees not to undertake any extraneous work.**—No municipal officer or other municipal employee shall undertake any work unconnected with his duties under this Act except with permission of the Chairperson.

38. **Officers and other employees not to be interested in any contract, etc. with the Council.**—(1) A person shall be disqualified for being appointed as a municipal officer or employee if he has, directly or indirectly, by himself or by a partner or any other person any share or interest in any contract made with, or any work being done for, the Council other than as such officer or employee.

(2) If any such officer or other employee acquires, directly or indirectly, by himself or by a partner or any other person, any share or interest in any such contract or work as is referred to in sub-section (1), he shall unless the authority appointing him in any particular case otherwise decides, be liable to be removed from his office by an order of such authority :

Provided that before an order of removal is made, such officer or other employee shall be given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

39. **Punishment for municipal officers and other employees.**—(1) Every municipal officer or other municipal employee shall be liable to have his increments or promotion withheld or to be censured, reduced in rank, compulsorily retired, removed or dismissed for any breach of any departmental regulations or of discipline or for carelessness, unfitness, neglect of duty or other misconduct by such authority as may be prescribed by regulation :

Provided that no such officer or other employee as aforesaid shall be reduced in rank, compulsorily retired, removed or dismissed by an authority subordinate to that by which he was appointed :

Provided further that the Council may by regulations provide that municipal employees belong to such classes or categories as may be specified in the regulations shall be liable also to be fined by such authority as may be specified therein.

(2) No such officer or other employee shall be punished under sub-section (1) unless he has been given a reasonable opportunity of showing

cause against the action proposed to be taken in regard to him.

Provided that this sub-section shall not apply—

(a) where an officer or other employee is removed or dismissed on the ground of conduct which had led to his conviction on a criminal charge ; or

(b) where the authority empowered to remove or dismiss such officer or other employee is satisfied that for some reason, to be recorded by that authority, it is not reasonably practicable to give that person an opportunity of showing cause.

(3) If any question arises whether it is not reasonably practichble to give any officer or other employee an opportunity of showing cause under sub-section (2), the decision thereon of the authority empowered to remove or dismiss such officer or other employee shall be final.

(4) An officer or other employee upon whom a punishment has been inflicted under this section may appeal to such officer or authority as may be prescribed by regulations :

Provided that in the case of an officer or other employee appointed by the Chairperson, an appeal shall lie to the Administrator.

40. Consultation with the Union Public Service Commission.—No appointment to any category A post within the meaning of clause (i) of sub-section (4) of section 34 shall be made except after consultation with the Commission :

Provided that no such consultation with the Commission shall be necessary in regard to the selection for appointment—

(a) to any acting or temporary post for a period not exceeding one year ; or

(b) to such ministerial posts as may from time to time be specified by the Council in consultation with the Commission when such posts are to be filled by promotion ; or

(c) to a post when at the time of such appointment the person to be appointed thereto is in the service of the Central Government or a State Government in a Group A post ;

(d) to a permanent or temporary post, if the officer or other employee to be appointed is not likely to hold that post for more than one year ; or if such officer or other employee is likely to hold the post for more than one year but not more than three years and the Commission advises that the appointment may be made without consulting the Commission ; or

(e) to such other posts, as may, from to time, be specified by the Central Government in consultation with the Commission.

41. Power of Commission to make regulations and reference to the Central Government in case of difference between the Commission and the Council.—(1) The Commission may make regulations for the following matters, namely :—

(a) the procedure to be followed by the Commission in advertising posts, inviting applications scrutinizing the same and selecting candidates for interview ;

(b) the procedure to be followed by the Commission for selecting canddinates for appointment and by the Council for consultation with the Commission ;

(c) any other matter which is incidental to, or necessary for, the purpose of consultation with the Commission.

(2) In the case of any difference of opinion between the Commission and the Council on any matter, the Council shall refer the matter to the Central Government and the decision of that Government thereon shall be final.

42. Recruitment to category B and category C posts.—The direct recruitment to category B and category C posts may be made by the Government through such agencies as may be prescribed for it.

43. Power of Council to make regulations.—(1) The Council may make regulations to provide for any one or more of the following matters, namely :—

(a) the tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence and other conditions of service of officers and other employees appointed under this Chapter ;

(b) the powers, duties and functions of Secretary ;

(c) the qualifications of candidates for appointment to posts specified in section 33 and to posts dealt with in the Schedule of posts referred to in sub-section (1) of section 34 and the manner of selection for appointments to such posts ;

(d) the procedure to be followed in imposing any penalty under sub-section (1) of section 39, suspension pending departmental inquiries before the imposition of such penalty and the authority by whom such suspension may be ordered ; the officer or anthority to whom an appeal shall lie under sub-section (4) of that section ;

(e) any other matter which is incidental to or necessary for, the purpose of regulatiug the appointment and conditions of service of persons appointed to services and posts under the Council and any other matter for which in the opinion of the Council provisions should be made by regulations.

(2) No regulation under clause (c) of sub-section (1) shall be made except after consultation with the Commission.

CHAPTER VII
REVENUE AND EXPENDITURE
The New Delhi Municipal Fund

44. Constitution of the New Delhi Municipal Fund.—(1) Save as otherwise provided in this Act—

(a) all funds which immediately before the establishment of the Council vested in the New Delhi Muncipal Committee ;

(b) all moneys received by or on behalf of the Council under the provisions of this Act or of any other law for the time being in force, or under any contract ;

(c) all proceeds of the disposal of property by, or on behalf of, the Council ;

(d) all rents accruing from any property of the Council ;

(e) all moneys raised by any tax, rate of cess levied for the purposes of this Act ;

(f) all fees collected and all fines levied under this Act or under any rule, regulation or bye-law made thereunder ;

(g) all moneys received by or on behalf of the Council from the Government or Central Government or any individual or association of individuals by way of grant or gift or deposit ;

(h) all interests and profits arising from any investment of, or from any transaction in connection with, any money belonging to the Council, including loans advanced under this Act ; and

(i) all moneys received by or on behalf of the Council from any other source whatsoever,

shall form one Fund to be entitled "the Municipal Fund of New Delhi" (hereinafter in this Act referred to as "the New Delhi Municipal Fund").

(2) The New Delhi Municipal Fund shall be held by the Council in trust for the purposes of this Act subject to the provisions herein contained and a General Account relating to all moneys received by or on behalf of the Council shall be maintained.

45. New Delhi Municipal Fund to be kept in the State Bank of India.—All moneys payable to the credit of the New Delhi Municipal Fund in the General Account shall be received by the Chairperson and shall be forthwith paid into the State Bank of India to the credit of the said Account which shall be entitled "The General Account of the New Delhi Municipal Fund".

46. Operation of the Account.—(1) Save as otherwise provided in this Act no payment shall be made by the State Bank of India out of the New Delhi Municipal Fund except on a cheque signed by both—

(a) the Financial Adviser or an officer subordinate to him authorised by the Chairperson in this behalf ; and

(b) the Chairperson or the Secretary or an officer subordinate to the Chairperson authorised by him in this behalf.

(2) Payment of any sum due by the Council in excess of five hundred rupees shall be made by means of a cheque signed in accordance with sub-section (1) and not in any other way.

(3) Payment not covered by sub-section (2) may be made in cash.

47. Payments not to be made unless covered by a budget-grant.—No payment of any sum out of the New Delhi Municipal Fund shall be made unless the expenditure of the same is covered by a current budget-grant and a sufficient balance of such budget-grant is still available notwithstanding any reduction or transfer thereof which may have been made under the provisions of this Act :

Provided that this section shall not apply to payments made in the following classes of cases, namely :—

(a) refund of taxes and other moneys which are authorised under this Act ;

(b) repayment of moneys belonging to contractors or other persons and held in deposit and of money collected or credited to the New Delhi Municipal Fund by mistake ;

(c) sums payable in any of the following circumstances—

(i) under orders of the Central Government on failure of the Council to take any action as required by that Government ; or

(ii) under any other enactment for the time being in force ; or

(iii) under the decree or order of a civil or criminal court passed against the Council ; or

(iv) under a compromise of any claim, suit or other legal proceedings ; or

(v) on account of cost incurred in taking immediate action by the Chairperson under clause (c) of section 18 to avert a sudden threat of danger to the property of the Council or to human life ;

(d) temporary paments for works urgently required by the Central Government in the public interest ;

(e) sums payable as compensation under this Act or under any rules, regulations or bye-laws made thereunder ;

(f) expenses incurred under section 287 by the Chairperson on special measures taken on the outbreak of dangerous diseases.

48. **Duty of persons signing cheques.** —Before any person signs a cheque in accordance with section 46, he shall satisfy himself that the sum for which the cheque is drawn is either—

(a) required for a purpose or work specifically sanctioned by the proper authority and covered by a current budget grant, or

(b) required for any payment referred to or specified in section 47.

49. **Procedure when money not covered by a budget-grant is expended.**— Whenever any sum is expended under clauses (c), (e) or (i) of the proviso to section 47, the Chairperson shall forthwith communicate the circumstances to the Council, which may take such action under the provisions of this Act as shall, in the circumstances appear possible and expedient for covering the amount of the additional expenditure.

50. **Application of New Delhi Municipal Fund.**—(1) The moneys from time to time credited to the New Delhi Municipal Fund shall be applied in payment of all sums, charges and costs necessary for carrying out the provisions of this Act, and of the rules, regulations and bye-laws made thereunder, or of which payment is duty directed, sanctioned or required by or under any of the provisions of this Act.

(2) Such moneys shall likewise be applied in payment of all sums payable out of the New Delhi Municipal Fund under any other enactment for the time being in force.

51. **Temporary payments from the New Delhi Municipal Fund for works urgently required for the public service.**—(1) On the written requisition of a Secretary to the Central Government, the Chairperson may at any time undertake the execution of any work certified by such Secretary to be urgently required in public interest, and for this purposes may temporarily make payments from the New Delhi Municipal Fund so far as the same can be met without unduly interfering with the regular work of the Council.

(2) The cost of work so executed and of the establishment engaged in executing the same shall be paid by the Central Government and credited to the New Delhi Municipal Fund.

(3) On the receipt of any requisition under sub-section (1) the Chairperson shall forthwith forward a copy thereof to the Council together with a report of the steps taken by him in pursuance of the same.

52. **Investment of surplus moneys.**—(1) Surplus money standing at the credit of General Account of the New Delhi Municipal Fund which cannot immediately be applied for the purposes specified in section 50 shall be deposited in the State Bank of India or in such Scheduled Bank or Banks as the Council may select or be invested in public securities.

(2) The loss, if any, arising from such deposit or investment shall be

debited to the General Account of the New Delhi Municipal Fund.

53. Constitution of Finance Commission.—(1) After the commencement of this Act the Finance Commission referred to in sub-section (1) of section 107A of the Delhi Municipal Corporation Act, 1957 (66 of 1957), shall review the financial position of the Council and make recommendations to the Administrator as to,—

(a) the principles which could govern,—

(i) the distribution between the National Capital Territory of Delhi and the Council of the net proceeds of the taxes, duties, tolls and fees leviable by the National Capital Territory of Delhi which may be divided between them ;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by, the Council ;

(iii) the grants-in-aid to the Council from the Consolidated Fund of the National Capital Territory of Delhi ;

(b) the measures needed to improve the financial position of the Council ;

(c) any other matter referred to the Finance Commission by the Administrator in the interest of sounti finance of the Council.

(2) The Administrator shall cause every recommendation made by the Commission under this section together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly of the National Capital Territory of Delhi.

Special Funds

54. Constitution of special funds.—(1) The Council shall constitute such special fund or funds as may be prescribed by regulations and such other funds necessary for the purposes of this Act as may be so prescribed.

(2) The constitution and disposal of such funds shall be effected in the manner laid down by regulations.

Budget Estimates

55. Adoption of Budget Estimates.—(1) The Council shall, on or before the 31st day of March every year, adopt for the ensuing year the budget estimate which shall be an estimate of the income and expenditure of the Council to be received and incurred on account of the municipal government of Delhi.

(2) On or before the 15th day of February of each year the Council shall determine the rates at which various municipal taxes, rates and cesses shall be levied in the next following year and save as otherwise provided in this Act the rates so fixed shall not be subsequently altered for the year for which they have been fixed.

(3) Budget estimates shall be prepared in such form as may be approved by the Council and presented and adopted in such manner and shall provide for all such matters as are prescribed by regulations made in this behalf.

56. Power of Council to alter budget estimates.—(1) On the recommendations of the Chairperson in respect of the budget estimates, the Council may from time to time, during the year,

(i) increase the amount of budget grant under any head ;

(ii) make additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year ;

(iii) transfer the amount or portion of the amount of the budget grant under any head to any other head ; or

(iv) reduce the amount of the budget grant under any head :

Provided that due regard shall be had to all the requirements of this Act and in making any increase or any additional budget grant, the estimated cash balance at the close of the year shall not be reduced below the sum of one lakh rupees or such higher sum as the Council may determine in respect of the budget estimate.

(2) Every increase in a budget grant and every additional budget grant made in a year under sub-section (1) shall be deemed to be included in the budget estimates finally adopted for that year.

(3) The Council may from time to time during the year—

(a) reduce the amount of a budget grant ; or

(b) sanction the transfer of any amount within a budget grant.

(4) The Chairperson may from time to time during the year sanction the transfer of any amount not exceeding ten thousand rupees within a minor head if such transfer does not involve a recurring liability :

Provided that every such transfer if it exceeds ten thousand rupees shall be reported forthwith by the Chairperson to the Council and the Chairperson shall give effect to any order that may be passed by the Council in relation thereto.

57. Power of Council to re-adjust income and expenditure during the year.—(1) If at any time during the year it appears to the Council that, notwithstanding any reduction of a budget grant that has been made under section 56 the income of the New Delhi Municipal Fund during the same year will not suffice to meet the expenditure sanctioned in the budget estimates of that year and to leave at the close of the year the cash balance specified in or determined under the proviso to sub-section (1) of section 56, then, it shall be incumbent on the Council to sanction forthwith any measures which it may considered necessary for adjusting the year's income to the expenditure.

(2) For the purposes of sub-section (1), the Council may either diminish the sanctioned expenditure of the year so far as it may be possible so to do with regard to all the requirements of this Act, or have recourse to supplementary taxation under section 97 or to an increase of the rates of cesses, fees, fares and other charges leviable under this Act, or to adopt all or any of these methods.

(3) If the whole or any part of the budget-grant included in the budget estimates for a year remains unexpended at the close of that year, and the amount thereof has not been taken into account in the opening balance entered in the budget estimates of any of the next two following years, the Chairperson may sanction the expenditure of such budget-grant or the unexpended portion thereof during the next two following years for the completion of the purpose or object for which the budget-grant was originally made and not for any other purpose or project.

Accounts and Audit

Scrutiny and Audit of Accounts

58. Accounts to be kept.—These shall be kept in such manner and in such form as may be prescribed by regulations the General Account of all receipt and expenditures of the Council.

59. Audit.—(1) The Chief Auditor shall conduct a monthly examination and audit of the accounts of the Council and shall report thereon to the Chairperson, who shall publish monthly an abstract of the receipts and expenditure of the month last preceding signed by him and by the Chief Auditor.

(2) The Chairperson may also, from time to time and for such period as he may think fit, conduct independently any examination and audit of the accounts of the Council.

(3) For the purpose of examination and audit of the accounts of the Council, the Chief Auditor shall have access to all the accounts of the Council and to all records and correspondence relating thereto.

(4) The Chief Auditor shall audit the accounts of the Council with the assistance of the officers and other employees subordinate to him.

(5) In the discharge of his functions under this section the Chief Auditor shall,—

(a) audit the accounts of expenditure from the revenue of the Council, expenditure on account of loan works and expenditure incurred out of special funds and shall ascertain whether moneys shown therein as have been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged, and whether the expenditure conforms to the authority which governs it ;

(b) audit the accounts of debts, deposits, sinking funds, advances, suspense and remittance transactions of the Council and report upon those accounts and upon the results of verification of the balance relating thereto.

(6) The Chief Auditor shall examine and audit the statement of accounts relating to the commercial service conducted in any department of the Council including the trading, manufacturing and profit and loss accounts, and the balance sheets where such accounts are maintained under the orders of the Council and shall certify and report upon these accounts.

(7) The Chief Auditor shall in consultation with the Chairperson and subject to any directions given by the Council determine the form and manner in which his reports on the accounts of the Council shall be prepared and shall have authority to call upon any officer of the Council to provide any information necessary for the preparation of these reports.

(8) The Chief Auditor may make such querries and observations in relation to any of the accounts of the Council which he is required to audit and call for such vouchers, statements, returns and explanation in relation to such accounts as he may think fit.

(9) Every such querry or observation as aforesaid shall be promptly taken into consideration by the officer or authority to whom it may be addressed and returned without delay with the necessary vouchers, documents or explanations to the Chief Auditor.

(10) The power of the Chief Auditor with regard to the disapproval of, and the procedure with regard to the settlement of objections to expenditure from the revenues of the Council shall be such as may be prescribed by the Chairperson in consultation with Chief Auditor, and with the approval of the Council.

(11) If the Chief Auditor considers it desirable that the whole or any part of the audit applied to any accounts which he is required to audit shall be conducted in the offices in which those accounts originate he may require

that those accounts, together with all boaks and documents having relation thereto, shall at all convenient times be made available in the said offices for inspection.

(12) The Chief Auditor shall have the power to require that any books or other documents relating to the accounts he is required to audit shall be sent for inspection by him :

Provided that if the documents are confidential, he shall be responsible for preventing disclosure of their contents.

(13) The Chief Auditor shall have authority to frame standing orders and to give directions on all matters relating to audit, and particularly, in respect of the method and the extent of audit to be applied and the raising and pursuing the objections.

(14) Expenditure sanctioned by the Chief Auditor shall be audited by an officer to be nominated by the Council.

(15) The Chief Audieor shall report to the Chairperson any material impropriety at irregularity which he may at any time observe in the expenditure or in the recovery of moneys due to the Council or in the accounts of the Council.

(16) The Chairperson shall cause to be laid before the Council every report made by the Chief Auditor to the Chairperson and every statement of the views of the Chief Auditor on any matter affecting the exercise and performance of the powers and duties assigned to him under this Act and the Council may take such action in regard to any of the matters as aforesaid as the Council may deem necessary.

(17) As soon as may be after the commencement of each year, the Chief Auditor shall deliver to the Council a report of the entire accounts of the Council for the previous year.

(18) The Chairperson shall cause the said report to be printed and shall forward as soon as may be printed copy thereof to each member of the Council.

(19) The Chairperson shall also forward without delay to the Government so many copies of the said report, as may be required by the Government with a brief statement of the action taken or proposed to be taken if any :

Provided that the Government may at any time appoint auditor for the purpose of making a special audit of the General Account of the New Delhi Municipal Fund and reporting thereon to the Government and the costs of such audit, as determined by the Government, shall be chargeable to the New Delhi Municipal Fund. The Auditor so appointed may exercise any power which the Chief Auditor may exercise.

CHAPTER VIII

Taxation

Levy of Taxes

60. Taxes to be imposed by the Council under this Act.—(1) The Council shall for the purposes of this Act, levy the following taxes, namely :—

(a) property tax ;

(b) a tax on vehicles and animals ;

(c) a theatre-tax ;

(d) a tax on advertisements other than advertisements published in the

newspapers ;

(e) a duty on the transfer of property ; and

(f) a tax on buildings payable along with the application for sanction of the building plan.

(2) In addition to the taxes specified in sub-section (1) the Council may, for the purposes of this Act; levy any of the following taxes, namely :--

(a) an education cess ;

(b) a tax on professions, trades, callings and employments ;

(c) a tax on the consumption, sales or supply of electricity ;

(d) a betterment tax on the increase in urban land values caused by the execution of any development or improvement work ;

(e) tolls.

(3) The laws specified in sub-section (1) and sub-section (2) shall be levied, assessed and collected in accordance with the provisions of this Act and the bye-laws made thereunder.

Property Tax

61. Rates of property tax.—(1) Save as otherwise provided in this Act, the property tax shall be levied on lands and buildings in New Delhi and shall consist of not less than ten and not more than thirty percent of rateable value of lands and buildings :

Provided that the Council may, when fixing the rate at which the property tax shall be levied during any year, determine that the rate leviable in respect of lands and buildings or portions of lands and buildings in which any particular class of trade or business is carried on shall be higher than the rate determined in respect of other lands and buildings or portion of other land and buildings by an amount not exceeding one-half of the rate so fixed :

Provided further that the tax may be levied on graduated scale, if the Council so determines.

Explanation.—Where any portion of a land or building is liable to a higher rate of the tax such portion shall be deemed to be a separate property for the purpose of municial taxation.

(2) The Council may exempt from the tax lands and buildings of which the rateable value does not exceed one thousand rupees.

62. Premises in respect of which property tax is to be levied.—(1) Save as otherwise provided in this Act, the property tax shall be levied in respect of all lands and buildings in New Delhi except—

(a) lands and buildings or portions of lands and buildings exclusively occupied and used for public worship or by a society or body for a charitable purpose :

Provided that such society or body is supported wholly or in part by voluntary contributions, applies its profits, if any, or other income in promoting its objects and does not pay any dividend or bonus to its members.

Explanation.—"Charitable purpose" includes relief of the poor, education and medical relief but does not include a purpose which relates exclusively to religious teaching ;

(b) lands and buildings vested in the Council, in respect of which the said tax, if levied, would under the provisions of this Act be leviable

primarily on the Council ;

(c) agricultural lands and buildings (other than dwelling houses).

(2) Lands and buildings or portions thereof shall not be deemed to be exclusively occupied and used for public worship or for a charitable purpose within the meaning of clause (a) of sub-section (1) if any trade or business is carried on in such lands and buildings or portions thereof or if in respect of such lands and buildings or portions thereof, any rent is derived.

(3) Where any portion of any land or building is exempt from the property tax by reasons of its being exclusively occupied and used for public worship or for a charitable purpose such portion shall be deemed to be a separate property for the purpose of municipal taxation.

63. Determination of rateable value of lands and buildings assessable to property tax.—(1) The rateable value of any lands or buildings assessable to any property taxes shall be the annual rent at which such land or building might reasonably be expected to let from year to year less a sum equal to ten percent of the said annual rent which shall be in lieu of all allowances for costs of repairs and insurance, and other expenses, if any, necessary to maintain the land or building in a state to command that rent :

Provided that in respect of any land or building the standard rent of which has been fixed under the Delhi Rent Control Act, 1958 (59 of 1958) the rateable value thereof shall not exceed the annual amount of the standard rent so fixed.

(2) The rateable value of any land which is not built upon but is capable of being built upon and of any land on which a building is in process of erection shall be fixed at five percent of estimated capital value of such land.

(3) All plant and machinery contained or situate in or upon any land or building and belonging to any of the classes specified from time to time by public notice by the Charperson with the approval of the Council, shall be deemed to form part of such land or building for the purpose of determining the rateable value thereof under sub-section (1) but save as aforesaid no account shall be taken of the value of any plant or machinery contained or situated in or upon any such land or building.

64. Charge for supply of water.—(1) A charge shall be levied for the water supplied to any land or building by measurement at such rate as shall from time to time be prescribed by the Council in this behalf.

(2) The Council may prescribe such conditions as it may think fit regarding the use of the water and regarding the charges to be paid for water consumed whilst a meter is out of order or under repair :

Provided that no condition prescribed under this sub-section shall be inconsistent with this Act or with any bye-law made thereunder.

(3) Any sum payable by a person, who is charged for water supplied, and not paid when it becomes due shall be recoverable as an arrear of tax under this Act

(4) In prescribing charges for water supplied by measurement under sub-section (1), it shall be lawful for the Council to prescribe different rates in respect of different classes of lands and buildings.

65. Taxation of Union Properties.—(1) Notwithstanding anything contained in the foregoing provisions of this Chapter, lands and buildings

being properties of the Union shall be exempt from the property tax specified in section 61 :

Provided that nothing in this sub-section shall prevent the Council from levying property tax on such lands and buildings to which immediately before the 26th January, 1950, they were liable or treated as liable, so long as that tax continues to be levied by the Council on other lands and buildings.

(2) Where the possession of any land or building, being property of the Union, has been delivered in pursuance of section 20 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) to a displaced person, or any association of displaced persons, whether incorporated or not, or to any other person [hereafter in this sub-section and the proviso to sub-section (1) of section 66 referred to as the transferee], the property tax specified in section 61 shall be leviable and shall be deemed to have been leviable in respect of such land or building with effect from the 7th day of April, 1958 or the date on which possession thereof has been delivered to the transferee, whichever is later, and such property tax shall, notwithstanding anything contained in any other provision of this Act, be recoverable with effect from that day or date, as the case may be.

66. **Incidence of property tax.**—(1) The property tax shall be primarily leviable as follows :—

(a) if the land or building is let, upon the lessor ;

(b) if the land or building is sub-let, upon the superior lessor ;

(c) if the land or building is unlet, upon the person in whom the right to let the same vests :

Provided that the property tax in respect of land and building, being property of the Union, possession of which has been delivered in pursuance of section 20 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954) shall be primarily leviable upon the transferee.

(2) If any land has been let for a term exceeding one year to a tenant and such tenant has built upon the land, the property tax assessed in respect of that land and the building erected thereon shall be primarily leviable upon the said tenant, whether the land and building are in the occupation of such tenant or a sub-tenant of such tenant.

Explanation.—The term "tenant" includes any person deriving title to the land or the building erected upon such land from the tenant whether by operation of law or by transfer inter vivos.

(3) The liability of the several owners of any buildings which is, or purports to be, severally owned in parts or flats or rooms, for payment of property tax or any instalment thereof payable during the period of such ownership shall be joint and several.

67. **Apportionment of liability for property tax when the premises are let or sub-let.**—(1) If any land or building assessed to property tax is let, and its rateable value exceeds the amount of rent payable in respect thereof to the person upon whom under the provision of section 66 the said tax is leviable, that person shall be entitled to receive from his tenant the difference between the amount of the property tax levied upon him and the amount which would be leviable upon him if the said tax was calculated on the amount of rent payable to him.

(2) If the land or building is sub-let and its rateable value exceeds the

amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under the sub-tenant, the tenant shall be entitled to receive from his sub-tenant or the sub-tenant shall be entitled to receive from the persons holding under him, as the case may be, the difference between any sum recovered under this section from such tenant or sub-tenant and the amount of property tax which would be leviable in respect of the said land or building if the rateble value thereof are equal to to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent which he pays.

(3) Any person entitled to receive any sum under this section shall have, for the recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to receive the same.

68. **Recovery of property tax from occupiers.**—(1) On the failure to recover any sum due on account of property tax in respect of any land or building from the person primarily liable therefor under section 66, the Chairperson shall recover from every occupier of such land or building by attachment, in accordance with section 108 of the rent payable by such occupier, a portion of the total sum due which bears, as nearly as may be, same proportion to that sum as the rent annually payable in respect of the whole of the land or building.

(2) An occupier from whom any sum is recovered under sub-section (1) shall be entitled to be reimbursed by the person primarily liable for the payment, and may in addition to having recourse to other remedies that may be open to him, deduct the amount so recovered from the amount of any rent from time to time becoming due from him to such person.

69. **Property tax as first charge on premises on which it is assessed.**—Property tax due under this Act in respect of any land or building shall, subject to the prior payment of land revenue, if any, due to the Council or Government or Central Government thereon, be a first charge—

(a) in the case of any land or building held immediately from the Council or Government or Central Government, upon the interest in such land or building of the person liable for such tax and upon the goods and other movable properties, if any, found within or upon such land or building and belonging to such person ; and

(b) in the case of any other land or building, upon such land or building and upon the goods and other movable properties, if any, found within or upon such land or building and belonging to the person liable for such tax.

Explanation.—The term "property tax" in this section shall be deemed to include the costs on recovery of property tax and the penalty, if any, payable as specified in the bye-laws.

70. **Assessment list.**—(1) Save as otherwise provided in this Act, the Council shall cause an assessment list of all lands and buildings in New Delhi to be prepared in such form and manner and containing such particulars with respect to such land and building as may be prescribed by bye-laws.

(2) When the assessment list has been prepared, the Chairperson shall give public notice thereof and of the place where the list or a copy thereof

may be inspected, and every person claiming to be the owner, lessee or occupier of any land or building included in the list and any authorised agent of such person, shall be at liberty to inspect the list and to make extracts therefrom free of charge.

(3) When the Chairperson shall, at the same time, give public notice of a date, not less than one month thereafter, when he will proceed to consider the rateable values of lands and buildings entered in the assessment list ; and in all cases in which any land or building is for the first time assessed, for the rateable value of any land or building is increased, he shall also give written notice thereof to the owner or to any lessee or occupier of the land or building.

(4) Any objection to a rateable value or any other matter as entered in th assessment list shall be made in writing to the Chairperson oefore the date fixed in the notice and shall state in what respect the rateable value, or other matter is disputed, and all objections so made shall be recorded in a register to be kept for the purpose.

(5) The objections shall be inquired into and investigated, and the persons making them shall be allowed an opportunity of being heard either in person or by authorised agent, by the Chairperson or by any officer of the Council authorised in this behalf by the Chairperson,

(6) When all objections have been disposed of, and the revision of rateable value has been completed, the assessment list shall be authenticated by signature of the Chairperson or, as the case may be, the officer authorised by him in this behalf, who shall certify that except in the cases, if any, in which amendments have been made as shown there in, no valid objection has been made to the rateab'e value or any other matte entered in the said list.

(7) The assessment list so authenticated shall be deposited in the office of the Council and shall be open, free of charge during office hours to all owners, lessees and occupiers of lands and buildings comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published.

71. **Evidential value of assessment list.**—Subject to such alterations as may thereafer be made in the assessment list under section 72 and to the result of any appeal made under the provisions of this Act, the entries in the assessment list authenticated and deposited as provided in section 70 shall be accepted as conclusive evidence for the purpose of assessing any tax levied under this Act, of the rateable value of all lands and buildings to which such entries respectively relate.

72. **Amendment of assessment list.**—(1) The Chairperson may, at any time, amend the assessment list—

(a) by inserting therein the name of any person whose name ought to be inserted ; or

(b) by inserting therein any land or building previou ly omitted ; or

(c) by striking out the name of any person not liable for the payment of property tax ; or

(d) by increasing or reduing for adequate resons the amount of any rateable value and or the assessment threupon ; or

(e) by making or cancelling any entry exempting any land or building from liability to property tax ; or

(f) by altering the assessment on the land or building which has been erroneously valued or assessed through fraud, mistake or accident ; or

(g) by inserting or altering an entry in respect of any building erected, re-erected, altered or added to, after the preparation of the assessment list ;

Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the year in which the notice under sub-section (2) is given.

(2) Before making any amendment under sub-section (1) the Chairperson shall give to any person affected by the amendment, notice of not less than one month that he proposes to make the amendment and consider any objection which may be made by such person.

72. Preparation of new assessment list.—It shall be in the discretion of the Chairperson to prepare for the whole or any part of New Delhi, a new assessment list every year or to adopt the rateable value contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the rateable value for the year following, giving the same public notice as well as individual notices, to persons affected by such alterations, of the rateable value as if a new assessment list had been prepared,

74. Notice of transfers.—(1) Whenever the title of any person primarily liable for the payment of property tax on any land or building is transferred, the person whose title is transferred and the person to whom the same is transfered shall within three months after he execution of the instrument of transfer or after registration, if it is registered, or after the transfer is effected, if no instrument is executed, give notice of such transfer in writing to the Chairperson.

(2) In the event of the death of any person primarily liable as aforesaid, the person on whom the title of the deceased devolves, shall give notice of such devolution to the Chairman within six months from the date of the death of the deceased.

(3) The notice to be given under this section shall be in such form as may be determined by bye-laws made under this Act, and the transferee or the other person on whom the title devolves shall, if so required, be bound to produce before the Chairperson any document evidencing the transfer or devolution.

(4) Every person who makes a transfer as aforesaid without giving such notice to the Chairperson shall, in addition to any penalty to which he may be subjected under the provisions of this Act, continue to be liable for the payment of property tax from time to time payable in respect of the land or building transferred until he gives such notice or until the transfer has been recorded in the Chairperson's book, but noting in this section shall be held to affect the liability of the transferee for the payment of the said tax.

(5) The Chairperson shall record every tranfer or devolution of title notified to him under this section in his books and in the assessment list.

(6) On a written request by the Chairperson, the registrar or sub-registrar of New Delhi appointed under the Registration Act, 1908 (16 of 1908), shall furnish such particulars regarding the registration of instruments of transfer of immovable properties in New Delhi, as the Chair-

person may from time to time require.

(7) Such information shall be furnished as soon as may be after the registration of an instrument of transfer is effected or, if the Chairperson so requests, by periodical returns at such intervals as the Chairperson may fix.

75. **Notice of erection of building etc.**—When a new building is erected or when any building is rebuilt or enlarged or when any building which has been vacant is reoccupied, the person primarily liable for the property tax assessed on the building shall give notice thereof in writing to the Chairperson within fifteen days from the date of its completion or occupation whichever first occurs, or as the case may be, from the date of its enlargement of re-occupation ; and property tax shall be assessable on the building from the said date.

76. **Notice of demolition or removal of buildings.**—(1) When any building or any portion of a building, which is liable to the payment of property tax is demolished or removed, otherwise than by order of the Chairperson, the person primarily liable for the payment of the said tax shall give notice thereof in writing to the Chairperson.

(2) Until such notice is given, the person aforesaid shall continue to be liable to the payment of such property tax as he would have been liable to pay in respect of such building if the same or any portion thereof had not been demolished or removed.

77. **Power of Chairperson to call for information and returns and to enter and inspect premises.**—(1) To enable him to determine the rateable value of any land or building and the person primarily liable for the payment of property tax leviable in respect thereof, the Chairperson may require the owner or occupier of such land or building, or of any portion thereof to furnish him within such reasonable perion as the Chairpersan fixes in this behalf, with information or with a written return signed by such owner or occupier—

(a) as to the name and place of residence of the owner or occupier, or of both the owner and occupier of such land or buildings ;

(b) as to the measurements or dimensions of such land or building or of any portion thereof and the rent, if any, obtained for such land or building or any portion thereof ; and

(c) as to the actual cost or other specified details connected with the determination of the value of such land or building.

(2) Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and to give true information or to make a true return to the best of his knowledge or belief.

(3) Whoever omits to comply with any requisition or fails to give true informatian or to make a true return to the best of his knowledge or belief, shall, in addition to any penalty to which he may be liable, qe precluded from objecting to any assessment made by the Chairperson in respect of such land or building of which he is the owner or occupier.

78. **Premises owned by, or let to two or more persons in severalty to be ordinarily assessed as one property.**—Notwithstanding that any land or building is owned by, or let to, two or more persons in severalty, the Chairperson sha l for the purpose of assessing such land or building to property tax treat the whole of it as one property :

(Only for winning candidates)

I hereby declare that the following candidate has been elected as Pradhan/Up-Pradhan/Pramukh/Up-Pramukh of Panchayat Samiti/Zila Parishad from Panchayat Samiti/Zila Parishad... .. ..

1	2	3	4	5	6	7
S.No.	Pradhan/ Up-Pradhan/ Pramukh/ Up-Pramukh	Name and address of the elected candidate	Sex	Caste	Name of Panchayat Samiti/ Zila Parishad	Remarks

*Strike out which is not applicable.

Place .....

Date.....

Officer appointed by the Collector/Chief Executive Officer, Zila Parishad.

Published in the Rajasthan Gazette, Extraordinary, Part 4(Ga), dated 30th March, 1995.

THE RAJASTHAN APPROPRIATION (VOTE ON ACCOUNT) (NO. 2) ACT, 1995
RAJASTHAN ACT NO. 3 OF 1995

An Act to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State for the services of a part of the financial year 1995-96.

Be it enacted by the Rajasthan State Legislature in the Forty-sixth Year of the Republic of India, as follows :—

1. Short title.—This Act may be called the **Rajasthan Appropriation (Vote on Account) (No. 2) Act, 1994.**

(Text Omitted)

Published in the Rajasthan Gazette, Extraordinary, Part IV (Ga), dated February 10, 1995.

DEPARTMENT OF RURAL DEVELOPMENT & PANCHAYATI RAJ

G.S.R. 126.—*(Jaipur, February 10, 1995).*—In exercise of the powers conferred by section 102 read with section 17 (5) of the Rajasthan Panchayati Raj Act, 1994 (Rajasthan Act No. 13 of 1994) and of all other powers enabling it in this behalf, the State Government hereby makes the following **amendments in Rajasthan Panchayati Raj (Election) Rules, 1994,** namely :—

AMENDMENTS

In the said Rules,—

(1) In rule 59,

(a) in the heading, the words "and Up-pradhan" shall be omitted ;

(b) in sub-rule (1), the words "and Up-pradhan" shall be omitted ;

(c) in sub-rule (4), the words "or Up-pradhan" wherever occurring shall be omitted ; and

(d) in sub-rule (6), the expression "or Up-pradhan, as the case may be," shall be omitted ;

(e) A new sub-rule (14) shall be added after sub-rule (13) as hereunder.—

(14) In case of equality of votes, the result shall be declared by drawing of lot by the officer conducting such elections.

(2) After rule 60, rule 60-A shall be inserted, namely :—

"**60-A. Election of Up-pradhan.**—(1) The Up-pradhan of a Panchayat Samiti shall be chosen by the elected members of the Panchayat Samiti from amongst themselves in the meeting subsequent to the first meeting of the Panchayat Samiti.

(2) The meeting shall be held at the date and time fixed by the Pradhan at the headquarters of the Panchayat Samiti.

(3) The Pradhan shall convene the meeting for election of Up-pradhan within one month from the date of the first meeting of the Panchayat Samiti and shall preside over it.

(4) The Pradhan shall inform the Collector at least two weeks before the date of the meeting to appoint an officer to conduct the election of Up-pradhan and request the officer appointed by the Collector to conduct the election of the Up-pradhan in the meeting.

(5) The provisions of sub-rule (3) to sub-rule (14) of rule 59 and rule 60 shall, mutatis mutandis, apply to the process of election of Up-pradhan."

(3) in rule 61,—

(a) in the heading, the words "and Up-pramukh" shall be omitted.

(b) in sub-rule (1), the words "and Up-pramukh" shall be omitted.

(c) in sub-rule (2), the words "or Up-pramukh" shall be omitted and the expression "(2) to (13)" shall be substituted by the expression "(2) to (14)".

(4) After rule 61, rule 61-A shall be inserted, namely :—

"**61-A. Election of Up-pramukh.**—(1) The Up-pramukh of a Zilla Parishad shall be chosen by the elected members of the Zilla Parishad from amongst themselves in the meeting subsequent to the first meeting of the Zilla Parishad.

(2) The meeting shall be held at the date and time fixed by the Pramukh at headquarters of the Zilla Parishad.

(3) The Pramukh shall convene the meeting for election of Up-pramukh within one month from the date of the first meeting of the Zilla Parishad and shall preside over it.

(4) The Pramukh shall inform the Collector at least two weeks before the date of the meeting to appoint an officer to conduct the election of Up-pramukh and request the officer appointed by the Collector to conduct the election of the Up-pramukh in the meeting.

(5) The provisions of sub-rule (3) to sub-rule (14) of rule 59 and rule 60 shall mutatis mutandis, apply to the process of election of the Up-pramukh."

Published in the Rajastan Gazette, Extraordinary, Part IV (Ga), dated September 15, 1994.

FINANCE (Gr. 2) DEPARTMENT

G.S.R. 12.—*(Jaipur June 30, 1994)*.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor hereby makes the following rules further to amend the Rajasthan Service Rules, namely :—

1. These rules may be called **the Rajasthan Service (Amendment) Rules, 1994.**

2. They shall be deemed to have come into force with effect from 18-2-1994.

3. In the said rules—

(i) the existing clause (g) of sub-rule (1) of Rule 244 shall be deleted.

(ii) the existing sub-rule (2) of Rule 286 shall be substituted by the following, namely :—

"(2) The sanction for payment of provisional pension and gratuity under sub-rule (1) shall be conveyed in Form P 5 by the Head of Department to the Director, Pension Department, Rajasthan for issue of provisional Pension Payment Order and Gratuity Payment Order. On receipt of sanction of provisional pension from the Head of Department, the Director, Pension Department, Rajasthan, shall issue provisional Pension Payment Order and Gratuity Payment Order within a week positively."

(iii) a proviso to sub-rule (2) of Rule 291 shall be inserted as under—

"Provided that in cases where the qualifying service of 33 years has already been verified in the pension case forwarded to the Director, Pension Department, Rajasthan, furnishing of certificate of satisfactory service and service verification for the period from the date of sending the case to the date of retirement shall not be necessary."

(iv) the existing clause (b) of sub-rule (1) of Rule 292 shall be substituted by the following, namely :—

"(b) The sanction for payment of provisional pension and gratuity under clause (a) shall be conveyed in P. 6 by the Head of Office to the Director, Pension Department, Rajasthan for issue of provisional Pension Payment Order and Gratuity Payment Order. On receipt of sanction of provisional pension from the Head of Office, the Director, Pension Department, Rajasthan shall issue provisional Pension Payment Order and Gratuity Payment Order within a week positively."

(v) the existing clause (ii) of sub-rule (2) of Rule 295 shall be deleted.

(vi) the existing Rule 320 shall be substituted by the following, namely :—

"320. If the pensioner afterwards appears, the disbursing officer may renew his payment. But the arrears cannot be paid if the amount of arrears exceed Rs. 25,000/- without the previous sanction of the Director, Pension Department, Rajasthan :

Provided that if the pension in arrears is to be paid for the first time in accordance with the provisions of Rule 301 and 302, no further sanction of the Director, Pension Department, Rajasthan would be required under this rule for the amount, of arrear exceeding Rs. 25,000/-."

(vii) the existing Rule 322 alongwith Note thereunder shall be substituted by the following :—

"(a) On the death of a pensioner, the Director, Pension Department, Rajasthan shall be empowered to pass the arrears on his own authority to his heirs.

(b) After payment of the arrears of pension the Pension Payment Order should be returned to the Director, Pension Department, Rajasthan with a report of date of death of the pensioner."

(viii) the existing Rule 323 alongwith "Government of Rajasthan's Decision" and "Government of Rajasthan Instructions" shall be substituted by the following, namely :—

"323. Subject to the provisions of the preceding rule, the arrears of pension of deceased pensioner may be paid to the heirs of the deceased, without the production of the usual legal authority to the extent of Rs. 25,000/- under the order of Treasury Officer/Pension Payment Officer after such enquiry into the rights and title of the claiment as may be deemed sufficient. Any excess above Rs. 25,000/- may similarly be paid under the orders of the Director, Pension Department, Rajasthan, on execution of an indemnity bond, with such sureties as it may be required, if it is satisfied of the right and the title of the claimant. In any case of doubt payment should be made only to the person producing legal authority."

Published in the Rajasthan Gazette, Extraordinary, Part 4(Ga), dated January 9, 1995.

COLONISATION DEPARTMENT

G.S.R. 11.—*(Jaipur, January 3, 1995).*—In exercise of the powers conferred by Section 7 read with Section 28 of the Rajasthan Colonisation Act, 1954 (Act No. XXVII of 1954), the State Government hereby makes the following rules further to amend the Rajasthan Colonisation (Allotment and Sale of Government Land in the Indira Gandhi Canal Colony Area) Rules, 1975, namely :—

1. **Short title.**—(i) These rules may be called **the Rajasthan Colonisation (Allotment and Sale of Government land in the Indira Gandhi Canal Colony Area) Amendment Rules, 1994.**

(ii) They shall come into force at once.

2. In Sub-rule (1) of rule 7 :—

(i) After clause (a) following proviso shall be added :—

"Provided that the temporary cultivation lease holder of the district in which the land to be allotted, is situated, shall be given first priority in allotment."

(ii) Clause (f) shall be substituted by the following :—

"(f) Landless persons of the neighbouring district."

(iii) After clause (f) new clauses (g) and (h) shall be added :—

"(g) Landless persons of any other districts of Rajasthan excluding the persons mentioned in clause (h)

(h) Landless persons of Colonised Part of Tehsils belonging to area covered by Major and Medium Irrigation Project."

4. In Sub-rule (1) of rule 13 :—

"Provided that in cases where there are two Members of Legislative Assembly representing Revenue Tehsil of which the Colonisation Tehsil is part in which the land is situated, the other Member of Legislative Assembly shall also be a Member and in case there are more than two members of Legislative Assembly, one of them nominated by the State Government shall be the member of Advisory Committee."

(iii) After clause (f) sub-clause (g) shall be added :—

"(g) Tehsildar of Revenue Tehsil in which the land is situated."

4. In sub-rule (1) of Rule 13A :—

(i) Between the words "date of applica ion" and "subject to the extent", the following words and expression shall be inserted.

"In accordance with priority as mentioned in sub-rule (1-A)".

(ii) The following new sub-rule (1 A) shall be inserted between sub-rules (1) and (2) :—

(1A) The priorities of allotment in case of other persons who has been a bonafide agriculturist and a bonafide resident of Rajasthan for a period of not less than twenty years, shall be as under :—

(a) Resident of the district in which the land, is to be allotted is situated.

(b) Resident of the neighbouring district excluding the persons mentioned in priority (d).

(c) Resident of any other district of Rajasthan excluding the persons mentioned in priority (d).

(d) Persons of colonised part of the Tehsil belonging to an area covered by Major or Medium Irrigation Project.

Published in the Rajasthan Gazette, Extraordinary, Part IV (Ga), dated March 30, 1995.

MINES (GR. II) DEPARTMENT

G.S.R. 141.—*(Jaipur March 28, 1995).*—In exercise of the powers conferred by section 15 of the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957), the State Government hereby makes the following rules further to amend the Rajasthan Minor Mineral Concession Rules, 1986, namely :—

1. Short title and commencement.—(1) These rules may be called **the Rajasthan Minor Mineral Con cession (Amendment) Rules, 1995.**

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 8 of the Rajasthan Minor Mineral Concession Rules, 1986 (hereinafter referred to as the principal Rules), for sub-rule (2), the following sub-rule shall be substituted, namely :—

"(2) An application for renewal of mining lease shall be made atleast 12 months before the expiry of the mining lease and shall be disposed of before the expiry of lease and if the application is not disposed of within that period, the lease shall be deemed to have been extended by a further period till final orders are passed on the renewal application by the competent authority."

3. In rule 17 of the principal rules, for sub-rule (3), the following sub-rule shall be substituted, namely :—

"(3) Notwithstanding anything contained in the instrument of the mining lease, if the application for renewal has not been disposed of before the expiry of the lease it shall be deemed to have been extended by a further period till the competent authority passes order there on. The dead rent after expiry of lease period shall be as per the revised dead rent referred to in sub-rule (3) of rule 18."

Published in the Rajasthan Gazette, Extraordinary, Part IV (Ga), dated March 8, 1995.

DEPARTMENT OF ENVIRONMENT

G.S.R. 132.—*(Jaipur, 8th March, 1995).*—In exercise of the powers conferred by Section 54 of the Air (Prevention and Control of Pollution) Act, 1981 (No. 14 of 1981), the State Government after consultation with the Rajasthan State Pollution Control Board, hereby makes the following rules further to amend the Rajasthan Air (Prevention and Control of Pollution) Rules, 1983, namely :—

1. **Short title, application and commencement.**—(1) These rules may be called **the Rajasthan Air (Prevention and Control of Pollution) (Amendment) Rules, 1995.**

(2) They shall come into force from the date of their publication in the Official Gazette.

2. In the Rajasthan Air (Prevention and Control of Pollution) Rules, 1983, hereinafter referred to as the "said rules", clause (d) of rule 2 shall be omitted.

3. In rule 4 of the said rules :—

(a) for the words "operating any industrial plant", the words "establishing or operating any industrial plant" shall be substituted.

(b) For the words and expression "Form 1" wherever occurring, the words and expression "Form 1 and Form 1-A as the case may be" shall be substituted.

(c) In the proviso the words "specified in schedule" shall be omitted.

4. For rule 5 of the said rules, following shall be substituted, namely :—

"**5. Consent fee.**—(1) Application under rule 4 shall be accompanied by the fee as mentioned in the schedule appended to these rules.

(2) An application not accompahied with the prescribed fee shall not be entertained by the Board.

(3) Consent fees shall be paid through Bank Draft payable in favour of the Member Secretary, Rajasthan State Pollution Control Board".

5. In rule 12 of the said rules, for the words and figures "The fees for each such report shall be Rs. 350/-", the words "The fees for each such report shall be such as may be notified by the Government" shall be substituted.

6. In the said rules after Rule 12, following new rules 12-A and 12-B shall be added, namely :—

"**12-A. Direction.**—(1) Any directions issued under section 31-A shall be in writing.

(2) The direction shall specify the nature of action to be taken and the time within which it shall be complied with by the person, officer or the authority to whom such a direction is given.

(3) The person, officer or authority to whom any direction is sought to be issued, shall be granted an opportunity of being heard :

Provided that where the State Board is of the opinion that in view of the likelihood of a grave injury to the environment, it is hot expedient to provide an opportunity of being heard, it may for reasons to be recorded in writing, issue direction without providing such an opportunity.

(4) Where the direction is for the stoppage or regulation of electri-

city or water or any other service affecting the carrying on of any industry, operation or the process, a copy of the direction shall also be endorsed to the occupier of the industry, operation or process as the case may be."

"12-B. Manner of giving notice.—(1) The manner of giving notice under clause (b) of sub-section (1) of section 43 shall be as follows, namely :—

(i) The notice shall be in writing in form IX.

(ii) The person giving notice may send it to :—

(a) The Member Secretary, Rajasthan State Pollution Control Board, Jaipur or (b) Any other officer authorised by the Board in this behalf.

(iii) Notice shall be sent by registered post with acknowledgement due.

(2) The period of sixty days mentioned in clause (b) of sub-section (1) of section 43 shall be reckoned from the date of its first receipt by one of the authorities mentioned above."

7. For rule 13 of the said rules, following shall be substituted, namely :—

"13. Qualification for Government or State Board Analyst.—A person shall not be qualified for appointment or recognised as a Government analyst or a Board analyst, as the case may be, under sub-section (1) or sub-section (2) of section 29 of the Act unless he is a :—

(1) Graduate in Science from a recognised University with five years experience in laboratory engaged in environmental investigation, testing or analysis ; or

(2) Post Graduate in Science or a graduate in engineering or a graduate in medicine or equivalent with two years experience in a laboratory engaged in environmental investigation, testing or analysis ; or

(3) Post Graduate in Environmental Science from a recognised University with two years experience in a laboratory engaged in environmental investigation, testing or analysis.

8. In the said rules for the existing expression "Rajasthan State Board for Prevention and Control of Water Pollution" wherever occurring, in Form Numbers II to VII, the expression "Rajasthan State Pollution Control Board" shall be substituted.

9. In the said rules for Form-I, the following shall be substituted, namely :—

FORM-I

Application for consent to establish

(To be submitted in Triplicate)

(See rule 4)

Application for consent to establish industrial plant under section 21 of the Air (Prevention and Control of Pollution) Act, 1981.

Dated :

From :———————

To :———————

Sir,

I/We hereby apply for Consent under section 21 of the Air (Prevention & Control of Pollution) Act, 1981 for establishing the Industrial Plant

owned by———— The relevant details are as follows :—

PART-I, General :

(a) Name of Industry :

(b) Address :

(c) Location (also enclose copy of Land Allotment/Land Conversion order an site map :

(d) Category of Industry (Red/Orange/others)

(e) Scale of Industry (Large/Medium/Small)

PART-II, Surrounding Details :

(a) Area of land proposed to be acquired (in Squre Meters)

(b) Which of the following features exist within 25 kms. of the site :

(i) Human Settlement (Specify Population)

(ii) Forest/Sanctuary/National Park/Hill Resort/National Monument

(iii) Nallah/Stream/River/Pond/Lake/Dam/any other water body

(iv) Industries, specify.

PART-III, Process Details :

(a) Manfaoturing Process with flow diagram

(b) Details of Raw Materials, Products, By Products and their Storage Capacity

Sr. No.	Particulars	Name	Nature	Quantity (Unit/day)
(i)	Raw Materials			
(ii)	Products			
(iii)	By-Products			
(iv)	Hazardous Chemicals			

(c) Energy Consumption

(d) Details of Fuel

S. No.	Plant/Auxiliary Machines Where Fuel is Used	Name and Quantity (TPD) Coal/diesel/other (Specify)
(i)		
(ii)		
(iii)		

PART IV, Water Pollution (Process-wise) :

(a) Water Consumption per day

(i) Boiler/Cooling/Industrial Spray/Mining

(ii) Domestic

(iii) Industrial Process

(b) Total waste water goneration per day

(c) Total waste water discharge per day

(d) Water balance

(e) Indicate waste water and sludge characteristics, before and after treatment—(physical/chemical)

to be Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India ;";

(f) after clause (1), the following clause shall be inserted, namely :—

"(1a) "State Election Commission" means the State Election Commission consisting of the State Election Commissioner appointed in accordance with the provisions of clause (1) of article 243-K of the Constitution of India ;";

(g) after clause (na), the following clause shall be added, namely :—

"(oo) "Wards Committee" means a Wards Committee constituted under section 50 TT ;

(pp) "Finance Commission" means the Finance Commission constituted in accordance with the provisions of Article 243-I of the Constitution of India.".

4. **Amendment of section 4 of Bom. III of 1888.**—In section 4 of the Bombay Corporation Act, after clause (e), the following clause shall be inserted, namely :—

"(ea) a Wards Committee ;".

5. **Substitution of section 5 of Bom. III of 1888.**—For section 5 of the Bombay Corporation Act, the following section shall be substituted, namely :—

"5. **Composition of Corporation.**—(1) The Corporation shall consist of,—

(a) two hundred and twenty-one councillors directly elected at ward elections ; and

(b) five nominated councillors having special knowledge or experience in Municipal Administration to be nominated by the Corporation in the prescribed manner ;

Provided that nothing in this sub-section shall have effect until the expiry of the existing term of the Corporation.

(2) The Corporation shall by the name of "The Municipal Corporation of Greater Bombay", be a body corporate and have perpetual succession and a common seal and by such name may sue and be sued.".

6. **Insertion of section 5A in Bom. III of 1888.**—After section 5 of the Bombay Corporation Act, the following section shall be inserted, namely :—

"5A. **Reservation of seats.**—(1) Notwithstanding anything contained in clause (a) of sub-section (1) of section 5 or in section 19, for the purpose of any general election held after the commencement of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994, (Mah. XLI of 1994) such number of seats out of the total number of seats to be filled in by direct election, shall be reserved for the members belonging to the Scheduled Castes, Scheduled Tribes, Women and the Backward Class of Citizens, as provided in sub-sections (2) to (5), both inclusive.

(2) (a) The number of seats to be reserved for the members belonging to the Scheduled Castes shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in the Corporation as the population of the Scheduled Castes in Greater Bombay bears to the total population of Greater Bombay ;

(b) one-third of the total number of seats reserved under clause (a)

shall be reserved for women belonging to the Scheduled Castes ;

Provided that, where only one seat is reserved for the Scheduled Castes, then no seat shall be reserved for women belonging to the Scheduled Castes and where only two seats are reserved for the Scheduled Castes, one of the two seats shall be reserved for women belonging to the Scheduled Castes.

(3) (a) The number of seats to be reserved for the members belonging to the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in the Corporation as the population of the Scheduled Tribes in Greater Bombay bears to the total population of Greater Bombay ;

(b) one-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Tribes ;

Provided that, where only one seat is reserved for the Scheduled Tribes, then no seat shall be reserved for women belonging to the Scheduled Tribes, and where only two seats are reserved for the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Tribes.

(4) (a) As nearly as may be twenty-seven per cent seats out of the total number of seats to be filled in by direct election shall be reserved for the members belonging to the Backward Class of citizens ;

(b) one-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Backward Class of citizens ;

(5) One-third (including the number of seats reserved for women belonging to the Scheduled Castes, Scheduled Tribes and the Backward Class of citizens) of the total number of seats to be filled in by direct election shall be reserved for women.

(6) The seats reserved under sub-sections (2), (3), (4) and (5) shall be allotted by the State Election Commissioner by rotation to different wards.

(7) The reservation of seats under sub-sections (2) and (3) for the Scheduled Castes and Scheduled Tribes other than the reservation for women in sub-section (5) shall cease to have effect after the period specified in Article 334 of the Constitution of India.".

7. **Substitution of heading above section 6 of Bom. III of 1888.**—For the heading above section 6 in the Bombay Corporation Act, the following heading shall be substituted, namely :—

'Duration of the Corporation ; Term of office of Councillors ; Casual Vacancies, etc.".

8. **Substitution of section 6 of Bom. III of 1888.**—For section 6 of the Bombay Corporation Act, the following sections shall be substituted, namely :—

"6. **Duration of Corporation.**—The Corporation shall continue for a period of five years from the date appointed for its first meeting and no longer.

6A. **Term of office of Councillors.**—The term of office of the Councillors shall be co-terminus with the duration of the Corporation.

6B. **Election to constitute Corporation.**—An election to constitute the Corporation shall be completed before the expiry of its duration specified in section 6".

9. **Deletion of section 7 of Bom. III of 1888.**—Section 7 of the Bombay Corporation Act shall be deleted.

10. Deletion of section 7A of Bom. III of 1888.—Section 7A of the Bombay Corporation Act shall be deleted.

11. Amendment of section 7B of Bom. III of 1888.—In section 7B of the Bombay Corporation Act, the words, brackets, figures and letter "and all such Committees or sub-committees shall stand dissolved on the date specified in the order issued under sub-section (1) of section 7A and the Administrator shall exercise and perform all the powers and duties of such Committee or sub-committees" shall be deleted.

12. Amendment of section 9 of Bom. III of 1888.—In section 9 of the Bombay Corporation Act,—

(a) for the words "previous to the day for retirement", the words "during the term of his office" shall be substituted ;

(b) in the first proviso, for the words "occurring within four months prior to the day for retirement" the words, figure and letter "if it occurs within six months preceding the date on which the term of office of the Councillor expires under section 6A" shall be substituted ;

(c) the second proviso shall be deleted.

13. Amendment of section 10 of Bom. III of 1888.—In section 10 of the Bombay Corporation Act, for the words "the Commissioner", the words "the State Election Commissioner" shall be substituted.

14. Amendment of section 16 of Bom. III of 1888.—In section 16 of the Bombay Corporation Act, in sub-section (1),—

(a) before clause (a), the following clause shall be inserted, namely :—

"(a-1) has been so disqualified by or under any law,—

(i) for the time being in force for the purpose of elections to the legislature of the State ;

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years ;

(ii) made by the Legislature of the State of Maharashtra ; or" ;

(b) for clause (b), the following clause shall be substituted, namely :—

"(b) has been convicted by a Court in India of any offence involving moral turpitude, unless a period of six years has elapsed since the date of conviction ; or"

15. Insertion of section 18A in Bom. III of 1888.—After section 18 of the Bombay Corporation Act, below the heading "Municipal Election Roll." the following section shall be inserted, namely :—

"18A. **State Election Commission.**—(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the Corporation shall vest in the State Election Commission.

(2) The State Election Commissioner may, by order, delegate any of his powers and functions to any officer of the State Election Commission or any officer of the Corporation not below the rank of the Ward officer.

(3) All the officers and members of the staff appointed or deployed for preparation of electoral rolls and conduct of elections of the Corporation under this Act or the rules shall function under the superintendence, direction and control of the Election Commissioner.

(4) Notwithstanding anything contained in this Act and the rules, the State Election Commissioner may issue such special or general orders as

directions which may not be inconsistent with the provisions of the Act and the rules for fair and free elections."

16 Amendment of section 19 of Bom. III of 1888.—In section 19 of the Bombay Corporation Act,—

(a) in sub-section (1),—

(1) in clause (a), for the words "State Government", wherever they occur, the words "State Election Commissioner" shall be substituted ;

(2) in clause (b),—

(A) for paragraph (i), the following paragraph shall be substituted, namely :—

"(i) the Assembly roll for the time being in force on such date as the State Election Commissioner may, by notification in the Official Gazette, specify (being any date before such notification, but any such date shall not be earlier than four months immediately preceding the date of such notification), shall be divided by the State Election Commissioner into different sections corresponding to the different wards in Greater Bombay ; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner shall be the draft ward-roll for each ward. The draft ward roll shall be published in such manner as may, in the opinion of the State Election Commissioner, be best calculated to bring the roll to the notice of all persons likely to be affected thereby, together with a notice specifying a date on or before which applications for the inclusion of names or for correction of entries therein, shall be lodged with an officer of the State Government as may be designated by the State Election Commissioner in this behalf." ;

(B) in paragraph (ii), for the words "State Government", the words "State Election Commissioner" shall be substituted ;

(C) in paragraph (v), for the words "an officer appointed by the State Government in this behalf", the words "State Election Commissioner" shall be substituted ;

(D) in paragraph (vi), for the portion beginning with the words "make available" and ending with the words "may determine," the following shall be substituted, namely ;—

"forward the roll as so corrected and brought up-to date and after authenticating it, to the State Election Commissioner who shall publish it as the ward roll." ;

(E) in paragraph (vii), for the word "Commissioner" the word "State Election Commissioner" shall be substituted ;

(F) in paragraph (ix), for the word "Commissioner" the words "State Election Commissioner" shall be substituted ;

(b) in sub-section (1A),—

(i) in clause (a), for the words "designated by it" the words "designated by the State Election Commissioner" shall be substituted ;

(ii) in clause (c), for the words "appointed by it" the words "appointed by the State Election Commissioner" shall be substituted.

17. Substitution of section 22 of Bom. III of 1888.—For section 22 of the Bombay Corporation Act, the following section shall be substituted, namely :—

"22. Date of election.—The dates of general ward election of councillors and elections to fill casual vacancies shall be fixed by the State Election

Commissioner",

18. **Amendment of section 25 of Bom. III of 1888.**—In section 25 of the Bombay Corporation Act, in sub-section (1), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted.

19. **Amendment of section 26 of Bom. III of 1888.**—In section 26 of the Bombay Corporation Act, in sub-section (2),—

(a) in clause (a), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted ;

(b) in clause (c), for the words "the Commissioner's Office" the words "the office of the State Election Commissioner" shall be substituted ;

(c) in clause (e), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted ;

(d) in clause (j), in the first proviso, for the words "the Commissioner" the words "the State Election Commissioner" shal be substituted ;

(e) in clause (k), for the words "the Commissioner", wherever they occur, the words "the State Election Commissioner" shall be substituted ;

(f) in clause (l), for the words "the Commissioner", wherever they occur, the words "the State Election Commissioner" shall be substituted.

20. **Amendment of section 26-A of Bom. III of 1888.**—In section 26A of the Bombay Corporation Act,—

(a) for the words "the Commissioner, in both the places where they occur, the words "an officer of the State Election Commissioner" shall be substituted ;

(b) after the words "Schdduled Caste" the words "Scheduled Tribe or Backward Class of citizens" shall be inserted.

21. **Amendment of section 27 of Bom. III of 1888.**—In section 27 of the Bombay Corporation Act, in sub-section (1), for the word "Commissioner" the words "State Election Commissioner" shall be substituted.

22. **Amendment of section 28 of Bom. III of 1888.**—In section 28 of the Bombay Corporation Act, for the words "the Commissioner" wherever they occur, the words "the State Election Commissioner" shall be substituted.

23. **Amendment of section 28-B of Bom. III of 1888.**—In section 28B of the Bombay Corporation Act, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) No person who is a presiding or polling officer at an election or an officer or an employee appointed, designated or empowered by the State Election Commissioner or such presiding officer to perform any duty in connection with an election shall in the conduct or management of the election do any act, other than the giving of vote, for the furtherance of the prospects of the election of a candidate."

24. **Amendment of section 28C of Bom. III of 1888.**—In section 28C of the Bombay Corporation Act, in sub-section (3),—

(a) the words "the Commissioner" shall be deleted ;

(b) for the words "person appointed" the words "person or officer appointed, designated or empowered" shall be substituted.

25. **Amendment of section 28E of Bom. III of 1888.**—In section 28E of

the Bombay Corporation Act,—

(a) in sub-section (1), in clause (b), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted ;

(b) in sub-section (2), in clause (a), the words "the Commissioner or" shall be deleted.

26. Amendment of section 28H of Bom. III of 1888.—In section 28H of the Bombay Corporation Act,—

(a) in sub-section (1), for the portion beginning with the words "the presiding officer for" and ending with the words "inform the Commissioner" the following shall be substituted, namely :—

"the State Election Commissioner, or subject to such directions as the State Election Commissioner may issue in this behalf, the presiding officer for such polling station as, the case may be, shall announce an adjournment of the poll to a date to be notified later, and where the poll is so adjourned by the presiding officer, he shall forthwith inform the State Election Commissioner" ;

(b) in sub-section (2), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted ;

(c) in sub-section (3), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted.

27. Amendment of section 28-I of Bom. III of 1888.—In section 28-I of the Bombay Corporation Act, for the words "the Commissioner" wherever they occur, the words "the State Election Commissioner" shall be substituted.

28. Amendment of section 29 of Bom. III of 1888.—In section 29 of the Bombay Corporation Act,—

(a) for the words "the Corporation shall, with the sanction of the State Government" the words "the State Government may in consultation with the State Election Commissioner" shall be substituted ;

(b) the following proviso shall be added at the end, namely :—

"Provided that, any such rules may provide for charging of fees for any of the purposes of the election."

(c) in the marginal note, for the word "Corporation" the words "State Government" shall be substituted.

29. Amendment of section 32 of Bom. III of 1888.—In section 32 of the Bombay Corporation Act, for the words "by fixing, as soon as may be after the election, in some conspicuous place in the Chief Municipal Office, a notice signed by the Commissioner" the words "in such manner as the State Election Commissioner may think fit," shall be substituted.

30. Amendment of section 33 of Bom. III of 1888.—In section 33 of the Bombay Corporation Act, in sub-section (1),—

(a) for the words "by the Commissioner", in both the places where they occur, the words "by the State Election Commissioner" shall be substituted ;

(b) the words "in the Commissioner's office" shall be deleted.

31. Amendment of Section 34 of Bom. III of 1888.—In section 34 of the Bombay Corporation Act, in sub-section (1), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted.

32. **Amendment of section 36 of Bom. III of 1888.**—In section 36 of the Bombay Corporation Act, to clause (g), the following proviso shall be added, namely :—

"Provided that the nominated Councillor referred to in clause (b) of sub-section (1) of section 5 shall not have the right to vote in any meeting of the Corporation.".

33. **Substitution of section 37 of Bom. III of 1888.**—For section 37 of the Bombay Corporation Act, the following sections shall be substituted, namely :—

"37. Election of Mayor.—(1) The Corporation shall have a Mayor, who shall, subject to the provisions of section 37-IA, be elected by the elected councillors from amongst themselves at the first meeting of the Corporation in each official year.

(2) The Mayor so elected shall hold office until the first meeting of the Corporation in the next following official year.

(3) Any elected councillor who ceases to be the Mayor on the expiry of his term shall be eligible for re-election.

(4) If any casual vacancy occurs in the office of the Mayor, the elected councillors shall, as soon as they conveniently can, after the occurrence of such vacancy, elect, from amongst themselves one of their member to fill such vacancy and the Mayor so elected shall hold the office only so long as the Mayor in whose place he is elected would have held the office, had the vacancy not occurred.

37-IA. Reservation of office of Mayor.—The office of the Mayor shall be reserved by rotation for the members belonging to the Scheduled Castes, Scheduled Tribes, Women and the Backward Class of citizens, in the prescribed manner.".

34. **Insertion of heading and section 50-TT in Bom. III of 1888.**—After section 50 T of the Bombay Corporation Act, the following heading and section shall be inserted, namely :—

"Wards Committees

50-TT. Constitution of Wards Committee.—(1) The Corporation shall constitute not more than twenty-five Wards Committees each comprising such contiguous electoral wards as may be decided by the Corporation.

(2) Each Wards Committee shall consist of,—

(a) the Councillors representing the electoral wards within the territorial area of the Wards Committee ;

(b) the Ward Officer incharge of the territorial area of the Wards Committee ;

(c) such number of other members, not exceeding three, nominated by the Councillors referred to in clause (a), from amongst the members of recognised non-Government Organisations and community based organisations engaged in social welfare activities working within the area of the Wards Committee ;

Provided that such persons are registered as electors in the Wards within the jurisdiction of the Wards Committee ;

Provided further that the norms for recognition of the non-Government Organisations, the requisite qualification for nomination as members and the manner in which they are to be nominated shall be such as the State

Government may prescribe.

(5) The duration of the Wards Committee shall be co-terminus with the duration of the Corporation.

(4) The elected Councillors referred to in clause (a) of sub-section (2) shall at the first meeting of the Wards Committee in each official year, elect from among themselves the Chairperson who shall hold office until the first meeting in the next following official year.

(5) The Chairperson of the Wards Committee shall be deemed to have vacated the office as soon as he ceases to be a Councillor.

(6) In the event of the office of the Chairperson falling vacant before the expiry of its term, the Wards Committee shall elect a new Chairperson :

Provided that, the Chairperson so selected shall hold office so long only as the Chairperson in whose place he is elected would have held office if such vacancy had not occurred.

(7) The functions of the Wards Committee shall, subject to the general supervision and control of the Corporation, be,—

(a) speedy redressal of common grievances of citizens, connected with local and essential municipal services like water supply, drainage, sanitation and storm water disposal ;

(b) to consider and make recommendations on the proposals regarding estimates of expenditure pertaining to the wards under different heads of account of the budget before being forwarded to the Commissioner ;

(c) to grant administrative approval and financial sanction to the plans for municipal works to be carried out within the territorial area of the Wards Committee costing upto rupees five lakhs provided that specific provision exists therefor in the budget sanctioned by the Corporation.

(8) Notwithstanding anything contained in sub-section (7), the Corporation may by a resolution, delegate to a Wards Committee such other powers, authority and functions as it may deem fit and expedient.

(9) The Wards Committee shall meet at least once in a month at the Ward Office.".

35. **Amendment of section 61 of Bom. III of 1888.**—In section 61 of the Bombay Corporation Act, after clause (a), the following clauses shall be inserted, namely ;—

"(aa) planning for economic and social development ;

(a) urban forestry, protection of environment and promotion of ecological aspects ; "

36. **Amendment of section 63 of Bom. III of 1888.**—In section 63 of the Bombay Corporation Act, before clause (b), the following clauses shall be inserted, namely ;—

"(a) slum improvement and upgradation ;

(aa) urban poverty alleviation ;"

37. **Insertion of sections 63A and 63B in Bom. III of 1888.**—After section 63 of the Bombay Corporation Act, the following sections shall be inserted, namely :—

"63A. **Performance of functions by agencies.**—Where any duty has been imposed on, or any function has been assigned to the Corporation under this Act or any other law for the time being in force, or the Corporation has been entrusted with the implementation of a scheme,—

(a) the Corporation may either discharge such duties or perform such

functions or implement such scheme by itself ; or

(b) subject to such directions as may be issued and the terms and conditions as may be determined by the State Government, cause them to be discharged, performed or implemented by any agency :

Provided that the Corporation may also specify terms and conditions, not inconsistent with the terms and conditions determined by the State Government, for such agency arrangements.

63B. **Environment Status Report.**—The Commissioner shall, before the 31st day of July every year, place before the Corporation a report on the status of environment within Greater Bombay in respect of the last preceding financial year, covering such matters and in such manner as may be specified by the State Government, from time to time.

38. **Amendment of section 77 of Bombay III of 1888.**—In section 77 of the Bombay Corporation Act, in sub section (2), in clause (b), after sub-clause (iv), the following sub-clause shall be inserted, namely :

"(v) the Wards Committees ;"

39. **Amendment of section 111A of Bom. III of 1888.**—To section 111A of the Bombay Corporation Act, the following proviso shall be added, namely :—

"Provided that it shall be competent for the State Government to deduct,—

(a) from the grants made by the State Government, or

(b) from any sum representing the grant-in-aid or the share of the Corporation in the net proceeds of the taxes, duties, tolls and fees levied by the State Government on the recommendations of the Finance Commission ;

any amount which is due to the State Government, or to any Government Corporation, Government Company or any other statutory authority constituted by the Government of Maharashtra ;

Provided further that before making such deductions, the Corporation's say in the matter shall be considered by the Government.

40. **Insertion of section 126G in Bom. III of 1888.**—After section 126F of the Bombay Corporation Act, the following section shall be inserted, namely :—

"126G. **Report on services provided in a subsidised manner.**—(1) Notwithstanding anything contained in this Chapter, the Commissioner or, as the case may be, the General Manager, shall, while submitting the budget estimates to the Standing Committee or the Bombay Electric Supply and Transport Committee append thereto a report indicating whether the following services are being provided in a subsidised manner and, if so, the extent of the subsidy, the source from which the subsidy was met and the sections or categories of the local population who were the beneficiaries of such subsidy, namely :—

(a) water supply and disposal of sewage,

(b) scavenging, transporting and disposal of wastes,

(c) municipal transport, and

(d) street lighting.

Explanation.—A service shall be construed as being provided in a subsidised manner if its total cost, comprising the expenditure on operations

and maintenance and adequate provision for depreciation of assets and for debt servicing, exceeds the income relatable to the rendering of that service.

(2) The Standing Committee or, as the case may be, the Bombay Electric Supply and Transport Committee, shall examine the report and place it before the Corporation, with the recommendation, if any.

41. **Amendment of section 140 of Bom. III of 1888.**—In section 140 of the Bombay Corporation Act, to sub-section (1), the following proviso shall be added, namely :—

"Provided that all or any of the property taxes may be imposed on a graduated scale".

CHAPTER III

Amendments to the Bombay Provincial Municipal Corporations Act, 1949.

42. **Amendment of long title and the preamble of Bombay. LIX of 1949.**—In the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) (hereinafter, in this chapter, referred to as "the Provincial Corporations Act),—

(a) in the long title, for the words "cities" the words "larger urban areas" shall be substituted ;

(b) in the preamble, for the words,—

(i) "in the city of Pune and certain other cities" the words "for certain larger urban areas" shall be substituted ;

(ii) "the said cities" the words "the said larger urban areas" shall be substituted.

43. **Amendment of section 1 of Bom. LIX of 1949.**—In section 1 of the Provincial Corporations Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) It extends to the areas of Municipal Corporations constituted or deemed to be constituted under the Act."

(b) sub section (3) shall be deleted.

44. **Amendment of section 2 of Bom. LIX of 1949.**—In section 2 of the Provincial Corporations Act,—

(a) clause (2) shall be deleted ;

(b) after clause (3), the following clause shall be inserted, namely :—

"(3A) "Backward Class of citizens" means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes and Vimukta Jatis and Nomadic Tribes ";

(c) for clause (8), the following clause shall be substituted, namely :—

"(8) "City" means the larger urban area specified in a notification issued in respect thereof under clause (2) of article 243-Q of the Constitution of India or under sub-section (2) of section 3 of this Act, forming a City ;"

(d) for clause (10), the following clause shall be substituted, namely :—

"(10) "Corporation" means the Municipal Corporation constituted or deemed to have been constituted for a larger urban area known as City ;" ;

(e) for clause (11), the following clause shall be substituted, name-

by,—

"(11) "Councillor" means a person duly elected as a member of the Corporation ; and includes a nominated Councillor who shall not have the right,—

(i) to vote at any meeting of the Corporation and Committees of the Corporation ; and

(ii) to get elected as a Mayor of the Corporation or a Chairperson of any of the Committees of the Corporation ;"

(*f*) after clause (21), the following clause shall be substituted, namely :—

"(21A) "Finance Commission" mean the Finance Commission constituted in accordance with the provisions of article 243-I of the Constitution of India ;" ;

(g) after clause (30), the following clause shall be inserted, namely :—

"(30A) "larger urban area" means an area specified as a larger urban area in a notification issued under clause (2) of article 243-Q of the Constitution of India or under the Act ;" ;

(h) after clause (59A), the following clauses shall be inserted, namely :—

"(59B) "Scheduled Castes" means such castes, races or parts of, or groups within, such castes, races or tribes as or deemed to be the Scheduled Castes in relation to the State of Maharashtra under article 341 of the Constitution of India ;

(59C) "Scheduled Tribes" means such tribes or tribal communities or part of, or groups within, such tribes or tribal communities as are deemed to be the Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India ;" ;

(i) after clause (62), the following clause shall be inserted, namely :—

"(62A) "State Election Commission" means the State Election Commission consisting of the State Election Commissioner appointed in accordance with the provisions of clause (1) of article 243-K of the Constitution of India ;" ;

(j) after clause (71), the following clause shall be inserted, namely :—

"(71A) "Wards Committee" means a Wards Committee constituted under section 29A of this Act ;".

45. **Amendment of section 3 of Bom. LIX of 1949.**—In section 3 of the Provincial Corporations Act, —

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—

"(1) The Corporation for every City constituted under this Act existing on the date of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994 (Mah. XLI of 1994), specified as a larger urban area in the notification issued in respect thereof under clause (2) of article 243-Q of the Constitution of India, shall be deemed to be a duly constituted Municipal Corporation for the larger urban area so specified forming a City, known by the name "The Municipal Corporation of the City of..... ".

(2) Save as provided in sub-section (1), the State Government may, having regard to the factors mentioned in clause (2) of article 243-Q of the

Constitution of India, specify by notification in the Official Gazette, any urban area with a population of not less than three lakhs as a larger urban area.

(2A) Every larger urban area so specified by the State Government under sub-section (2), shall form a City and there shall be a Municipal Corporation for such larger urban area known by the name of the Municipal Corporation of the City of....." ;

(b) in sub-section (3),—

(i) for the words "The State Government", the words "Subject to the provisions of sub-section (2), the State Government" shall be substituted ;

(ii) for the word 'City" wherever it occurs, the words "larger urban area" shall be substituted ;

(iii) for the marginal note, the following marginal note shall be substituted, namely :—

"Specification of larger urban areas and constitution of Corporation.",

46. Deletion of section 3-A of Bom. LIX of 1949. Section 3A of the Provincial Corporations Act shall be deleted.

47. Amendment of section 4 of Bom. LIX of 1949.—In section 4 of the Provincial Corporations Act, in sub-section (1), after clause (B), the following clause shall be inserted, namely :—

"(BA) Wards Committee ; and".

48. Amendment of section 5 of Bom. LIX of 1949.—In section 5 of the Provincial Corporations Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) Each Corporation shall consist of,—

(a) such number of councillors, elected directly at ward elections, as is specified in the table below ;—

TABLE

Population	Number of Councillors
(i) Above 3 lakhs and upto 6 lakhs	The minimum number of elected councillors shall be 65. For every additional population of 15,000 above 3 lakhs, one additional councillor shall be provided, so however that the maximum number of elected councillors shall not exceed 85.
(ii) Above 6 lakhs and upto 12 lakhs.	The minimum number of elected councillors shall be 85. For every additional population of 20,000 above 6 lakhs, one additional councillor shall be provided, so however that the maximum number of elected councillors shall not exceed 115.
(iii) Above 12 lakhs and upto 24 lakhs.	The minimum number of elected councillors shall be 115.

	For every additional population of 40,000 above 12 lakhs, one additional councillor shall be provided, so however that the maximum number of elected councillors shall not exceed 145.
(iv) Above 24 lakhs.	The minimum number of elected councillors shall be 145. For every additional population of 1 lakh, one additional councillor shall be provided, so that, the maximum number of elected councillors shall be 221 ;

(b) such number of nominated councillors not exceeding five, having special knowledge or experience in Municipal Administration, to be nominated by the Corporation in such manner as may be prescribed.";

(b) in sub-section (3),—

(i) for the words "State Government" the words "State Election Commissioner" shall be substituted ;

(ii) in the first proviso, for the words "except for the general elections held not less than six weeks next after the date thereof and for subsequent elections"

the words "until the expiry of the duration of the existing term of the Corporations" shall be substituted ;

(iii) the second proviso together with the Explanations and the third proviso shall be deleted ;

(iv) in the fourth proviso, for the words "State Government" the words "State Election Commissioner" shall be substituted ;

(c) sub-sections (4) and (5) shall be deleted.

49. Insertion of section 5A of Bom. LIX of 1949.—After section 5 of the Provincial Corporations Act, the following section shall be inserted, namely :—

"5A. Reservation of Seats.—(1) (a) In the seats to be filled in by election in a Corporation, there shall be seats reserved for persons belonging to the Scheduled Castes, Scheduled Tribes, Backward Class of citizens and women, as may be determined by the State Election Commissioner, in the prescribed manner ;

(b) the seats to be reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes in a Corporation shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in the Corporation as the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in that Corporation area bears to the total population of that area and such seats shall be allotted by rotation to different electoral wards in a Corporation ;

Provided that, one-third of the total number of seats so reserved shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes ;

Provided further that, where only one seat is reserved for the Scheduled

Castes, or as the case may be, the Scheduled Tribes then no seat shall be reserved for women belonging to the Scheduled Castes, or as the case may be, the Scheduled Tribes and where only two seats are reserved for the Scheduled Castes, or as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes, or as the case may be, the Scheduled Tribes;

(c) the number of seats to be reserved for persons belonging to the category of Backward Class of citizens shall be twenty-seven per cent of the total number of seats to be filled in by election in a Corporation and such seats shall be allotted by rotation to different electoral wards in a Corporation;

Provided that, one-third of the total number of seats so reserved shall be reserved for women belonging to the category of Backward Class of citizens;

(d) one-third (including the number of seats reserved for women belonging to the Scheduled Castes, Scheduled Tribes and the category of Backward Class of citizens) of the total number of seats to be filled in by direct election in a Corporation shall be reserved for women and such seats shall be allotted by rotation to different electoral wards in a Corporation.

(2) The reservation of seats (other than the reservation for women) under clause (b) of sub-section (1), shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India.".

50. Substitution of section 6 of Bom. LIX of 1949.—For section 6 of the Provincial Corporations Act, the following section shall be substituted, namely :—

"6. Duration of Corporations.—(1) Every Corporation, unless sooner dissolved, shall continue for a period of five years from the date appointed for its first meeting and no longer.

(2) A Corporation constituted upon the dissolution of a Corporation before the expiration of its duration, shall continue for the remainder of the period for which the dissolved Corporation would have continued under sub-section (1) had it not been so dissolved,".

51. Insertion of sections 6A and 6B in Bom. LIX of 1949.—After section 6 of the Provincial Corporations Act, the following sections shall be inserted, namely :—

"6A. Term of office of Councillors.—The term of office of the Councillors shall be co-terminus with the duration of the Corporation.

6B. Election to constitute a Corporation.—An election to constitute a Corporation shall be completed,—

(a) before the expiry of its duration specified in sub-section (1) of section 6; or

(b) before the expiration of a period of six months from the date of its dissolution :

Provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Corporation for such period.".

52. Deletion of section 7-A1 of Bom. LIX of 1949.—Section 7-A1 of the Provincial Corporations Act shall be deleted.

53. **Amendment of section 7A of Bom. LIX of 1949.**—In section 7-A of the Provincial Corporations Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The Assembly roll for the time being in force, on such date as the State Election Commissioner may, by notification in the Official Gazette, specify (being any date before such notification, but any such date shall not be earlier than four months immediately preceding the date of such notification), shall be divided by the State Election Commissioner, into different sections corresponding to the different wards in the City ; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner shall be the draft ward roll for each ward. The draft ward roll shall be published in such manner as may, in the opinion of the State Election Commissioner, be best calculated to bring the roll to the notice of all persons likely to be affected thereby, together with a notice specifying a date on or before which applications for the inclusion of names or for correction of entries therein shall be lodged with an officer of the State Government as may be designated by the State Election Commissioner in this behalf." ;

(b) in sub-section (2), for the words "the State Government" the words "the State Election Commissioner" shall be substituted ;

(c) in sub-section (5), for the words "the Collector, or to an officer appointed by the Collector in this behalf" the words "the State Election Commissioner" shall be substituted ;

(d) in sub-section (6), for the words "make available a copy of the roll as so corrected and brought upto the date and after authenticating it, to the Commissioner or the officer authorised by him, who shall publish it as the ward roll in such manner as the Commissioner may determine" the words "forward the roll as so corrected and brought up-to-date and after authenticating it, to the State Election Commissioner who shall publish it as the ward roll, shall be substituted ;"

(e) in sub-section (7), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted ;

(f) in sub section (8), for the words "The Commissioner" where it occur at the first place, the words "the State Election Commissioner" shall be substituted ;

(g) in sub-section (9), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted ;

(h) in sub-section (10), for the words "the State Government" the words "the State Election Commissioner" shall be substituted.

54. **Amendment of section 7AA of Bom. LIX of 1949.**—In section 7AA of the Provincial Corporations Act,—

(a) in sub-section (1), for the words "to an officer of the State Government designated by the Collector" the words "to such officer of the State Election Commission as the State Election Commissioner may designate" shall be substituted ;

(b) in sub-section (3), for the words "the Collector, or to an officer of the State Government appointed by the Collector in this behalf" the words "the State Election Commissioner" shall be substituted.

55. **Amendment of section 10 of Bom. LIX of 1949.**—In section 10 of the Provincial Corporations Act, in sub-section (1), for clause (a), the following clauses shall be substituted, namely :—

"(a-ii) has been so disqualified by or under any law ;

(i) for the time being in force for the purpose of elections to the Legislature of the State ;

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if has attained the age of twenty one years ;

(ii) made by the Legislature of the State of Maharashtra ; or

(a) has been convicted by a Court in India of any offence involving moral turpitude, unless a period of six years has elapsed since the date of such conviction ; or."

56. **Substitution of section 14 of Bom. LIX of 1949.**—For section 14 of the Provincial Corporations Act, the following section shall be substituted, namely :—

"14. **State Election Commission.**—(1) The superintendence, direction and control of the preparation of electroal rolls for, and the conduct of, all elections to the Corperations shall vest in the State Election Commissioner.

(2) The State Election Commissioner may, by order, delegate any of his powers and functions to any officer of the State Election Commission or any officer of the State Government not below the rank of Deputy Collector or to any officer of the Corporation not below the rank of the Assistant Municipal Commissioner.

(3) All officers and members of the staff appointed or deployed for preparation of electoral rolls and conduct of election of the Corporation under this Act or the rules shall function under the superintendence, direction and control of the State Election Commissioner.

(4) Notwithstanding anything contained in this Act and the rules, the State Election Commissioner may issue such special or general orders or directions which may not be inconsistent with the provisions of the Act and the rules for fair and free elections."

57. **Amendment of section 15 of Bom. LIX of 1949.**—In section 15 of the Provincial Corporation Act, in sub section (1),—

(a) the portion beginning with the words "and, in any case" and ending with the words "has occurred" shall be deleted ;

(b) in the first proviso, the words "or as the case may be, of the expiry of the date referred to in the second proviso" shall be deleted ;

(c) the second proviso shall be deleted.

58. **Amendment of section 16 of Bom. LIX of 1949.**—In section 16 of the Provincial Corporation Act,—

(a) in sub-section (1), for the word "Commissioner" the words "State Election Commissioner" shall be substituted ;

(b) in sub-section (2),—

(i) for the words "State Government" the words "State Election Commissioner" shall be substituted ;

(ii) after the words "any officer" the words "of the Commission" shall be inserted ;

(c) after sub-section (2), the following sub-section shall be inserted,

266D. Inspection of Corporation works and institutions by Government officers.—Any work or institution constructed or maintained or any programme undertaken in whole or in part, at the expense of the Corporation, and all registers, books, accounts or other documents relating thereto, shall, at all times, be open to inspection by such officers as the State Government may appoint in this behalf.

266E. Power to suspend action under this Act.—(1) The State Government may, after giving the Corporation a reasonable opportunity of being heard, annul any proceeding or resolution or order which it considers to be not in conformity with the provisions of this Act or the rules made thereunder and may do all things necessary to secure such conformity ;

Provided that pending the hearing to be given to the Corporation, the State Government may suspend the operation of such proceeding or resolution or order.

(2) The State Government, on receiving any information that the Corporation is about to pass an order or instruction or implement any act in excess of any power conferred by this Act, may forthwith prohibit the passing of such order or instruction or implementation of such act, and such prohibition shall be binding on the Corporation :

Provided that the State Government shall immediately thereafter give an opportunity to the Corporation to make its representation in the matter upon which the State Government shall give final order with reasons in writing.

266F. Power of State Government in case of default.—(1) If, at any time, it appears to the State Government that the Corporation has made default in performing any duty imposed on it by or under this Act or any other law for the time being in force, the State Government may, by order in writing, fix a period for due performance of such duty.

(2) If such duty is not performed within the period so fixed, the State Government may appoint its own agency to perform it, and may direct that the expenses of performing it shall be paid to such agency from the Corporation Fund within such time as it may fix.

266G. Co-ordination for purposes of planning and development.—(1) The State Government may require the Corporation to be integrated with such authorities at the level of district, region or State for the purposes of co-ordination of planning and development, as it may deem fit and proper.

(2) When so required, it shall be the duty of the Corporation to participate in such process of co-ordination in accordance with such procedure as the State Government may determine.

266H. Civic participation.—(1) The Corporation shall convene a meeting of the citizens in each area covered by a Borough Committee once a year for placing its annual administration report and annual financial statement for public information and deliberation thereon.

(2) The views of the citizens on the said report and statement shall be recorded and considered in such manner as may be prescribed.

266I. Services of Municipal Engineering Directorate.—(1) The State Government may require the Corporation to avail of the services of the Municipal Engineering Directorate of the State Government in all matters in which the State Government considers such services necessary.

(2) The power of the State Government under sub-section (1) shall

include the power to post a technical officer, namely, an engineer, architect or town planner, from the pool of the Municipal Engineering Directorate, with or without supporting staff, who shall discharge his functions in such manner as the State Government may decide.

266J. Training and Research Programmes of Institute of Local Government and Urban Studies.—(1) The State Government may require the Corporation to participate in such training and research programmes as may be organised by the Institute of Local Government and Urban Studies from time to time in aid of the Corporation functionaries and personnel.

(2) It shall be obligatory on the part of the Corporation to furnish such papers, reports, documents, information, data and statistics as may be called for by the Institute of Local Government and Urban Studies from time to time.

266K. Appointment of officers for Corporation from cadres of State Government.—Notwithstanding anything contained elsewhere in this Act, the State Government may, in consultation with the Mayor, appoint, from its own cadre, an officer to be posted for the Corporation by way of support service on such terms and conditions as the State Government may decide ;

Provided that an officer so appointed shall be under the administrative control of the Mayor-in-Council.

266L. Disputes.—If any dispute arises on any matter between the Corporation and any other local authority, such dispute shall be referred to the State Government whose decision thereon shall be final and shall not be questioned in any Court.

266M. Savings as to certain suits and proceedings.—(1) Any suit or other legal proceeding instituted, or any action taken, which but for the passing of this Act would have been instituted or taken under the Bengal Municipal Act, 1932, (Ben. Act 15 of 1932), by or against the Asansol Municipality constituted under that Act may be continued or instituted by Corporation.

(2) For the purposes of such suit or legal proceedings and of all matters incidental thereto, the powers and the duties of the Commissioners or the Board of Commissioners of the Asansol Municipality constituted under the Bengal Municipal Act, 1932, shall vest in the Corporation constituted or appointed under this Act.

(3) Save as provided in sub-section (2), the procedure laid down in this Act shall be followed in all proceedings relating to a contravention of the provisions of the Bengal Municipal Act, 1932." ;

(10) in Section 272, for the words "to assist the Corporation, the Mayor-in Council.", the words "to assist the Mayor-in-Council, the Councillor," shall be substituted.

(11) after Section 287, the following section shall be inserted and shall be deemed always to have been inserted ;—

"288. Savings and validation.—Notwithstanding the repeal of the Chandernagore Municipal Act, 1955 (hereinafter referred to as the said Act).-

(a) every budget passed, loan taken, assessment made, building plan sanctioned, licence for permission or sanction granted or issued or any other similar action taken under the said Act, and in force immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been passed, taken, made,

sanctioned, granted or issued under this Act and shall, unless altered, modified, cancelled, suspended, or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so passed, taken, made, sanctioned, granted or issued ;

(b) all properties, movable or immovable and all rights and interest of whatever kind, owned by, or vested in, the Municipal Corporation of Chandernagore established under the said Act (hereinafter referred to as the former Corporation) shall, at the date of commencement of this Act, be deemed to be owned by, or vested in, the Corporation ;

(c) all contracts made or liabilities incurred by the former Corporation and legally subsisting against that former Corporation immediately before the commencement of this Act, shall at the date of commencement of this Act, pass on to the Corporation ; and

(d) all officers or other employees appointed under the the Act, and continuing in office immediately before the commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been appointed under this Act."

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THE WEST BENGAL DISTRICT PLANNING COMMITTEE ACT, 1994

WEST BENGAL ACT NO. XX OF 1994

An Act to provide for the constitution of District Planning Committee at the district level for consolidation of the plans prepared by the Panchayats and the Municipalities in the district and preparation of draft development plan for the district as a whole

Whereas it is expedient to provide for the constitution of District Planning Committee at the district level for consolidation of the plans prepared by the Panchayats and the Municipalities in the district and preparation of draft development plan for the district as a whole ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :

1. Short title, extent and commencement.—(1) This Act may be called the West Bengal District Planning Committee Act, 1994.

(2) It extends to the whole of West Bengal, except the areas to which the provisions of :—

(a) the Calcutta Municipal Corporation Act, 1980 (West Ben. Act 59 of 1980), or

(b) the Darjeeling Gorkha Hill Council Act, 1988 (West Ben. Act 13 of 1988), or

any part or modification thereto, apply or may hereafter be applied.

(3) It shall come into force on such date as the State Government may, be notification, appoint.

2. Definitions.—In this Act, unless the content otherwise requires,—

(a) "Committee" means a District Planning Committee, or Siliguri Sub-division Planning Committee, constituted under sub-section (1) of section (3) ;

(b) "Constitution" means the Constitution of India ;

(c) "District Magistrate" includes an Additional District Magistrate,

or any other Magistrate appointed by the State Government to discharge all or any of the functions of the District Magistrate under this Act ;

(d) "Governor" means the Governor, appointed as such under article 155, read with article 158 of the Constitution, for the State of West Bengal ;

(e) "Municipality" has the same meaning as in clause (e) of article 243P of the Constitution ;

(f) "notification" means a notification published in the Official Gazette ;

(g) "Panchayat Samiti" means a Panchayat Samiti constituted under the West Bengal Panchayat Act, 1973 (West Ben. Act 41 of 1973) ;

(h) "population" means the population ascertained at the last preceding census of which the relevant figures have been published ;

(i) "prescribed" means prescribed by rules made under this Act ;

(j) "rural area" means an area within a Block.

Explanation.—"Block" has the same meaning as in clause (7) of section 2 of the West Bengal Panchayat Act, 1973.

(k) "urban area" means an area within a Municipality ;

(l) "Zilla Parishad" means a Zilla Parishad, and includes Mahakuma Parishad for the sub-division of Siliguri in the district of Darjeeling, constituted under the West Bengal Panchayat Act, 1973.

3. **District Planning Committee.**—(1) For every district the State Government shall constitute a District Planning Committee bearing the name of the district, except for the sub division of Siliguri in the district of Darjeeling for which the State Government shall constitute a Planning Committee to be called Siliguri Sub-division Planning Committee.

(2) Subject to such rules as may be made by the State Government in this behalf, the State Government shall, by notification, determine the number of members of a Committee including—

(a) the number of such members to be elected by, and from amongst, the elected members of the Zilla Parishad ;

Provided that no Sabhadhipati of a Zilla Parishad shall be elected under this clause,

(b) the number of such members to be elected by, and from amongst the elected members, by whatever name called, of all the Municipalities within the district or, in the case of the sub-division of Siliguri in the district of Darjeeling, of all Municipalities within that sub-division ;

Provided that no Chairperson of a Municipality shall be elected under this clause, and

(c) the number of such members, not exceeding one-fifth of the total number of members of the Committee, as may be appointed by the State Government under sub-section (3) ;

Provided that the ratio between the number of members of a Committee and the sum total of the rural population and the urban population in district, or in the case of the sub-division of the Siliguri, in the district of Darjeeling, in that sub-division shall, so far as practicable, be the same throughout West Bengal ;

Provided further that four-fifths of the total number of members of a Committee shall not exceed the total number of elected members of the Zilla Parishad ;

Provided also that the number of members referred to in clause (a) shall

bear, as nearly as may be, the same proportion to the number of members, referred to in clause (b), as the population of the rural areas bear to the population of the urban areas in the district or, in the case of the sub-division of Siliguri in the district of Darjeeling, in that sub-division.

(3) Subject to the provisions of clause (c) of sub-section (2), the State Government shall, by notification, appoint the members referred to therein, and such members shall include—

(a) the Sabhadhipati of the Zilla Parishad,

(b) the District Magistrate of the district, and

(c) such other members as the State Government may think fit to choose from amongst—

(i) the Sabhapatis of the Panchayat Samitis within the district,

(ii) the members of the House of the People and the Legislative Assembly of the State elected thereto from a constituency comprising any part of the district, not being Ministers,

(iii) the officers of the State Government or of any statutory body or corporation deemed by the State Government to have specialised knowledge,

(iv) the Chairpersons of the Municipalities within the district or, in the case of the sub-division of Siliguri in the district of Darjeeling, within that sub-division, and

(v) the economists and social and political workers of eminence.

4. **Chairperson, Vice-Chairperson and Secretary of Committee.**—(1) The Sabhadhipati of the Zilla Parishad shall be the Chairperson of the Committee.

(2) As soon as may be after constitution of the Committee or in the event of any vacancy, as the case may be, the members of the Committee shall select a Vice-Chairperson from amongst themselves in such manner as may be determined by the Chairperson.

(3) In the absence of the Chairperson, the Vice-Chairperson shall preside at the meeting of the Committee.

(3) The District Magistrate shall be the Secretary of the Committee and shall make available to the Committee such assistance as may be necessary for the discharge of its functions.

5. **Elections**—(1) Subject to such rules as may be made by the State Government in this behalf and such directions as that Government may issue for the purpose, the District Magistrate shall co-ordinate and supervise all work in connection with the election of members to the Committee.

(2) The District Magistrate shall appoint a Returning Officer and as many Assistant Returning Officers as may be necessary for the purpose of conducting the election of members to the Committee.

(3) The powers and functions of the Returning Officer and the Assistant Returning Officers shall be such as may be prescribed.

(4) If any dispute arises as to the validity of an election under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the results of such election, file a petition, calling in question such election, before the Divisional Commissioner having jurisdiction, and the order of the Divisional Commissioner in disposing of the petition shall be final

(5) Notwithstanding anything to the contrary contained in this Act or

in any other law for the time being in force, no civil court shall have any jurisdiction to entertain any petition calling in question the validity of any election under this Act.

6. **Term of office of members of Committee.**—A member of a Committee who is a member of—

(a) a Zilla Parishad, or
(b) a Municipality, or
(c) a Panchayat Samiti, or
(d) the House of the People, or
(e) the Legislative Assembly of the State,

shall cease to be a member of the Committee if he ceases to be a member of—

(i) the Zilla Parishad, or
(ii) the Municipality, or
(iii) the Panchayat Samiti or
(iv) the House of the People, or
(v) the Legislative Assembly of the State,

as the case may be.

7. **Resignation.**—A Vice-Chairperson or a member of the Committee may, at any time, resign his office by notifying in writing his intention to do so to the Chairperson and, on such resignation being accepted, the Vice-Chairperson or the member, as the case may be, shall be deemed to have vacated his office.

8. **Filling of casual vacancy in the place of an elected member of Committee.**—If the office of an elected member of a Committee becomes vacant by reason of his death, resignation or otherwise, the vacancy shall be filled by election of another member in the prescribed manner.

9. **Procedure, meeting and records of meeting, etc., of Committee.**—(1) The Committee shall regulate its procedure and shall, without prejudice to a generality of such power, decide as and when and in which manner, a meeting shall be held :

Provided that the Chairperson, when required by notice in writing by at least one-third of the members of the Committee to call a meeting, shall do so in ordinary manner, within one month from the date of receipt of the notice.

(2) One-third of the total number of members, subject to a minimum of ten members, shall be a quorum for a meeting of the Committee :

Provided that no quorum shall be necessary for an adjourned meeting.

(3) The Secretary of the Committee shall maintain records of the meeting of the Committee and shall take such actions in this behalf as the Committee may decide.

10. **Powers and functions of Committee, constitution of sub-committees, etc.**—(1) The Committee shall—

(a) consolidate the plans prepared by the Panchayats and the Municipalities in the district, and

(b) prepare a draft development plan for the district as a whole.

(2) The Committee shall, in preparing the draft development plan under clause (b) of sub-section (1),—

(a) have regard to—

(i) matters of common interest between the Panchayats and the Municipalities including special planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation ;

(ii) the extent and type of available resources, whether financial or otherwise ;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(3) The State Government may, by order, assign to the Committee such functions relating to district planning and co-ordination and monitoring of the activities of different departments of the State Government as may be deemed necessary.

(4) Subject to such rules as may be made by the State Government in this behalf, the State Government may, by notification, constitute an Urban Development Sub-Committee and such other sub-committees as may be deemed necessary for carrying out the purposes of the Act :

Provided that each such Sub Committee shall consist of not less than seven members selected from amongst the members of the Committee or such economists, economic planners, administrators, or social and political workers of eminence, as the State Government may think fit.

(5) The Chairperson of a Committee shall forward the development plan, as recommended by such Committee, to the State Government in such manner as may be prescribed

11. **Power to make rules.**—(1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act, are required to be prescribed or to be provided for by rules.

(3) All rules made under this Act shall be published in the Official Gazette and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

(8) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the Session in which they are so laid.

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THE WEST BENGAL LUXURY TAX ACT, 1994

WEST BENGAL ACT NO. XV OF 1994

An Act to provide for the imposition of tax on luxuries and for matters connected therewith or incidental thereto.

Whereas it is expedient to provide for the imposition of tax on luxuries and for matters connected therewith or incidental thereto ;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows :—

1. **Short title, extent and commencement.**—(1) This Act may be called the West Bengal Luxury Tax Act, 1994.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may by notification appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Bureau" means the Bureau of Investigation referred to in section 19A of the Bengal Finance (Sales Tax) Act, 1941 (Ben. Act VI of 1941) ;

(b) "licensed stockist" means a stockist to whom a licence has been granted under sub-section (4) of section 6 ;

(c) "luxuries" means the commodities, as specified in the Schedule, for enjoyment over and above the necessaries of life ;

(d) "luxury tax" means the tax payable under section 4 ;

(e) "notification" means a notification published in the Official Gazette ;

(f) "prescribed" means prescribed by rules made under this Act ;

(g) "Schedule" means the Schedule to this Act ;

(h) "stock of luxuries" mean the quantity of luxuries that a stockist receives in, or procures for, his stock, or records or accounts for in his books of account, in West Bengal during any prescribed period for stocking, vending, supplying or distributing to a wholesaler, dealer, retailer, distributor or any other person, but shall not include any quantity of such luxuries held by him in stock on the first day of such prescribed period ;

(i) "stockist" means a person who has, in customary course of business, in his possession of, or control over, a stock of luxuries, whether manufactured, made or processed by him in West Bengal, either on his own account or on account of others, from any place outside West Bengal, for stocking, vending, supplying or distributing such luxuries in West Bengal ;

(j) "Taxation Tribunal" means the West Bengal Taxation Tribunal constituted under section 3 of the West Bengal Taxation Tribunal Act, 1987 (West Bengal Act VIII of 1987) ;

(k) "Tribunal" means the West Bengal Commercial Taxes Tribunal constituted under section 3B of the West Bengal Finance (Sales Tax) Act, 1941 ;

(l) "turnover of stock of luxuries", in relation to a stockist in respect of any prescribed period or part thereof, means the aggregate of the values of stock of luxuries ;

(m) "value of stock of luxuries" means,—

(i) in respect of any stockist, being a manufacturer of any of the luxuries, the value of such luxuries calculated at the ex-factory price at the time of receipt or entry thereof in his stock, and

(ii) in respect of any stockist, being an importer of any of the luxuries, the value of such luxuries calculated at the price thereof as per consignor's bill, invoice or consignment note or other document of like nature,

and shall include—

(A) excise duty and central sales tax, if any, paid or payable on such luxuries by the manufacturer or importer thereof, as the case may be, and

(B) transport charges and insurance charges, if any, for carrying such luxuries to any premises, godown, warehouse or any other place for delivery to a wholesaler, dealer, retailer, distributor or any other person ;

(n) "year" means the year commencing on the first day of April.

3. Taxing authorities.—(1) The State Government shall prescribe an

relation to such property for the decision of the question and the decision of the Tribunal in respect of such matter shall be final ;

Provided that—

(a) In the case of the list of Wakfs relating to any area of the State and published or purporting to have been published after the commencement of the Wakf (Madhya Pradesh Amendment) Act, 1994, no such application shall be entertained after the expiry of one year from the date of publication of the list of Wakf under sub-section (2) of section 5 ; and

(b) In the case of the list of Wakfs relating to any part of the State and published or purporting to have been published at any time within a period of one year immediately preceding the commencement of the Wakf (Madhya Pradesh Amendment) Act, 1994 such an application may be entertained by the Tribunal within the period of one year from such commencement ;

Provided further that where any such question has been heard and finally decided by a civil court in a suit instituted before such commencement, the Tribunal shall not reopen such question.

(2) The Wakf Commissioner shall not be made a party to any application under sub-section (1).

(3) The list of Wakfs published under sub-section (2) of section 5 and where any such list is modified in pursuance of a decision of the Tribunal under sub-section (1) the list as so modified, shall be final.".

6. **Substitution of new section for section 55.**—For section 55 of the Principal Act, the following section shall be substituted, namely :—

"55. **Appointment, powers and Jurisdiction of Tribunals.**—(1) The State Government shall by notification in the Official Gazette, constitute as many Tribunals, as it may think fit for the determination of any dispute, question or other matter relating to a Wakf or Wakfs property which such Tribunal is, or may be, required to determine under this section, or any rule or order made thereunder and may, by the same or subsequent notification in the Official Gazette, define the local limits of the area in relation to which such Tribunal appointed by it shall exercise jurisdiction under this Act.

(2) Any mutawalli of a Wakf, person interested in a Wakf or any other person aggrieved by any order made under this Act or any rule or order made thereunder, may make an application within the time specified in this Act or where no such time has been specified, within such time as may be prescribed to the Tribunal for the determination of any dispute, question or other matter relating to the Wakf.

(3) Where any application made under sub-section (2) relates to any Wakf property which falls within the territorial limits of the jurisdiction of two or more Tribunals, such application may be made to the Tribunal within the local limits of whose jurisdiction the mutawalli or any one of the mutawallis of the Wakf actually and voluntarily resides, carries on business or personally works for gain, and, where any such application is made to the Tribunal aforesaid, the other Tribunal or Tribunals having jurisdiction shall not entertain any application for the determination of such dispute, question or other matter ;

Provided that the State Government may if it is of opinion that it is expedient in the interests of the Wakf or any other person interested in

the Wakf or the Wakf property, to transfer such application to any other Tribunal having jurisdiction for the determination of the dispute, question or other matter relating to such Wakf or Wakf property, transfer such application to any other Tribunal having jurisdiction, and on such transfer, the Tribunal to which the application is so transferred shall deal with the application from the stage which was reached before the Tribunal from which the application has been so transferred, except where the Tribunal is of opinion that it is necessary in the interests of justice to deal with the application afresh.

(4) Every Tribunal shall consist of one person who shall be a member of the State Judicial Service holding a rank, not below that of a District and Sessions Judge or of a Civil Judge, Class I, and the appointment of every such person may be made either by name or by designation.

(5) The Tribunal shall be deemed to be a Civil Court and shall have the same powers as may be exercised by a Civil Court under the Code of Civil Procedure, 1908 while trying a suit, or executing a decree or order.

(6) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) the Tribunal shall follow such procedure as may be prescribed :

Provided that where any procedure, different from the prescribed procedure, is specified by this Act the Tribunal shall following the procedure specified by this Act.

(7) The decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a Civil Court.

(8) Execution of any decision of the Tribunal shall be made by the Civil Court to which such decision is sent for execution in accordance with the provisions of the Code of Civil Procedure, 1908 (No. 5 of 1908).

(9) No appeal shall lie against any decision or order whether interim or otherwise, given or made by the Tribunal :

Provided that High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such order as it may think fit.

7. **Insertion of new sections 55-A to 55-G.**—After section 55 of the principal Act, the following sections shall be inserted, namely :—

"**55-A. Tribunal to hold proceedings expeditiously and to furnish to the parties copies of its decision.**—Whenever an application is made to a Tribunal for the determination of any dispute, question or other matter relating to a Wakf or Wakf property it shall hold its proceedings as expeditiously as possible and shall as soon as practicable, on the conclusion of the hearing of such matter give its decision in writing under its signature and furnish a copy of such decision to each of the parties who were present before it at the time of the decision and, where any party was not present at the time aforesaid, send a copy of such decision to such party by registered post.

55 B. **Amendment of decisions.**—Clerical or arithmetical mistake in any decision or order of a Tribunal or any error arising therein from any

accidental slip or omission may at any time be corrected by the Tribunal by which such decision was given or order was made, either on its own motion or on the application of any of the parties to the proceeding, and wherever any such correction is made, a copy of the decision or order, as so corrected, shall be furnished to each of the parties who were present before the Tribunal at the time of making such correction, and, where any party was not so present, shall be sent to such party by registered post.

55-C. **Bar of jurisdiction of civil courts in respect of matters determined by Tribunal.**—No suit or other legal proceeding shall lie in any civil court in respect of any dispute, question or other matter relating to any Wakf or Wakf property or other matter which is required by, or under, this Act, to be determined by the Tribunal.

55-D. **Appointment of a receiver in certain cases.**—Notwithstanding anything contained in the Code of Civil Procedure, 1908 (No 5 of 1908), or any other law for the time being in force, where any suit or other legal proceeding is instituted or commenced.—

(a) by or on behalf of a Board—

(i) to set aside the sale of any immovable property, which is Wakf property, in execution of a decree or order of a civil court;

(ii) to set aside the transfer of any immovable property, which is Wakf property, made by the mutawalli thereof, whether for valuable consideration or not without or otherwise than in accordance with, the sanction of the Board;

(iii) to recover possession of the property referred to in Clause (a) or Clause (b) or to restore possession of such property to the mutawalli of the concerned wakf; or

(b) by mutawalli to recover possession of immovable property, which is wakf property which has been transferred by a previous mutawalli whether for valuable consideration or not, without or otherwise than in accordance with, the sanction of the Board, and which is in the possession of the defendant. The Court may, on the application of the plaintiff, appoint a receiver of such property and direct such receiver to pay from time to time to the plaintiff, out of the income of the property such amount as the court may consider to be necessary for further prosecution of the suit.

55-E. **Bar to the enforcement of right on behalf of unregistered Wakfs.**—(1) Notwithstanding anything contained in any other law for the time being in force no suit, appeal or other legal proceeding for the enforcement of any right on behalf of any Wakf which has not been registered in accordance with the provisions of this Act, shall be instituted or commenced or heard, tried or decided by any court after the commencement of the Wakf (Madhya Pradesh Amendment) Act, 1994, or where any such suit, appeal or other legal proceeding had been instituted or commenced before such commencement, no such suit, appeal or other legal proceeding shall be continued, heard, tried or decided by any court after such commencement unless such Wakf has been registered, after such commencement, in accordance with the provisions of this Act.

(2) The provisions of sub-section (1) shall apply, as far as may be, to the claim for set of or any other claim made on behalf of any Wakf which has not been registered in accordance with the provision of this Act.

55-F. **Bar to the challenge of the validity of any notification, etc.**—Save

as otherwise expressly provided in this Act, no notification or order or decision made, proceeding or action taken, by the State Government under this Act, or any rule made thereunder shall be questioned in any civil court.

55-G. **Transfer of pending case.**—(1) Every suit or other proceeding pending before any court or other authorities immediately before the date of constitution of the Tribunal under this Act being a suit or proceeding the cause of action, whereon it is based, is such that it would have been, if it had arisen after such constitution,, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal ;

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before the High Court.

(2) Where any suit or other proceeding stands transferred from any court or other authority to the Tribunal under sub-section (1)—

(a) The court or authority shall as soon as may be after such transfer forward the records of such suit or other proceeding to the Tribunal ; and

(b) The Tribunal may, on receipt of such records proceed to deal with such suit or other proceeding in such manner as the Tribunal may deem fit.".

8. **Repeal.**—The Wakf (Madhya Pradesh Amendment) Ordinance, 1994 (No. 5 of 1994) is hereby repealed.

THE MADHYA PRADESH LOKAYUKT EVEM UP-LOKAYUKT (DWITIYA SANSHODHAN) ADHINIYAM, 1994

In following Act received the assent of the Governor on the 3rd January, 1995, and was published in the "Madhya Pradesh Gazette (Extraordinary)" dated the 7th January, 1995.

MADHYA PRADESH ACT No. 2 OF 1995

An Act further to amend the Madhya Pradesh Lokayukt Evam Up-lokayukt Adhiniyam, 1981.

Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the **Madhya Pradesh Lokayukt Evam Up-Lokayukt (Dwitya Sanshodhan) Adhiniyam, 1994.**

2. **Amendment of Section 13-A.** -In Section 13 A of the Madhya Pradesh Lokayukt Evam Up-Lokayukt Adhiniyam, 1981 (No. 37 of 1981). —

(i) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1). The State Government may, by notification in the Official Gazette constitute a District Vigilance Committee for each district consisting of three members out of whom one shall be retired Judicial Officer not below the rank of a civil judge class I or a retired executive officer having experience of court's working not below the rank of a class I Officer of the State Government" ;

(ii) in sub-section (2) for the words "in consultation with" the words "on the recommendation of" shall be substituted.

THE MADHYA PRADESH APPROPRIATION (NO. 5) ACT, 1994

The following Act, received the assent of the Governor on the 6th January, 1995, and was published in the "Madhya Pradesh Gazette (Extraordinary)" dated the 12th January, 1995.

MADHYA PRADESH ACT NO. 5 OF 1995

An Act to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Madhya Pradesh for the Services of the Financial Year 1994-95.

Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follows :—

1. Short title.—This Act may be called the Madhya Pradesh Appropriation (No. 5) Act, 1994.

(Text omitted)

THE MADHYA PRADESH NAGAR TATHA GRAM NIVESH (DWITIYA SANSHODHAN) ADHINIYAM, 1994.

The following Act, received the assent of the Governor on the 14th January 1995 ; and was published in the "Madhya Pradesh Gazette (Extraordinary)" dated the 1st February, 1995.

An Act further to amend the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973.

Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follows :—

1. Short title and commencement.—(1) This Act may be called the Madhya Pradesh Nagar Tatha Gram Nivesh (Dwitiya Sanshodhan) Adhiniyam, 1994.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Amendment of Section 76.—For sub-section (2) of Section 76 of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (No. 23 of 1973), the following sub-section shall be substituted, namely :—

"(2) As from the said date,—

(a) all assets and liabilities of the authority shall stand vested in the Municipality in that area and such Municipality shall have all powers necessary to take possession of, recover and deal with such assets and discharge such liabilities ;

Provided that in cases where the area of such authority falls in different Municipalities the assets and liabilities of the authority shall be distributed among the Municipalities in such manner as the State Government may, by order, determine.

(b) any proceeding pending to which the authority was a party shall be continued as if the Municipality was a party thereof in lieu of the authority.

Explanation.—For the purposes of this sub-section "Municipality" means a Municipal Corporation constituted under Section 7 of the Madhya Pradesh Municipal Corporation Act, 1956 (No. 23 of 1956) or a Municipal Council or Nagar Panchayat constituted under Section 3 of the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961) as the case may be."

THE MADHYA PRADESH EXCISE (AMENDMENT) ACT, 1994

The following Act, received the assent of the Governor on the 8th February, 1995 ; and was published in the "Madhya Pradesh Gazette (Extraordinary)" dated the 16th February, 1995.

MADAYA PRADESH ACT NO. 6 OF 1995

An Act further to amend the Madhya Pradesh Excise Act, 1915.

Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follow :—

1. **Short title.**—This Act may be called the Madhya Pradesh Excise (Amendment) Act, 1994.

2. **Amendment of Section 28.**— For Section 28 of the Madhya Pradesh Excise Act, 1915 (No. II of 1915) (hereinafter referred to as the Principal Act), the following Section shall be substituted, namely :—

"28. Form and conditions of Licence etc.— (1) Every Permit or pass issued or licence granted under this Act shall be issued or granted on payment of such fees, for such period, subject to such restrictions and conditions and shall be in such form and contain such particulars as may be prescribed.

(2) The conditions prescribed under sub-section (1) may require, inter-alia, the licencee to lift for sale, the minimum quantity of country spirit or Indian-made-foreign liquor, fixed for his shop and to pay the penalty at the prescribed rate on the quantity of liquor short lifted.

(3) Penalty at the prescribed rate on infraction or infringement of any conditions laid down in sub-section (1) or specifically enumerated in sub-section (2) shall be leviable on and recoverable from the licencee."

3. **Amendment of Section 48.**— In Section 48 of the Principal Act,—

(i) for the existing marginal heading, the following marginal heading shall be substituted, namely :—

"Power to compound offences and impose penalty" ;

(ii) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The Excise Commissioner or the Collector may,—

(a) accept from any person where licence, permit or pass is liable to be cancelled or suspended under clauses (a) or (b) of Section 31, or who is reasonably believed to have committed an offence under Section 37, Section 38, Section 38-A (Except cases involving admixture to an intoxicant with any noxious drugs) or Section 39, a sum of money not exceeding ten thousand rupees in lieu of such cancellation or suspension or by way of composition for such offence, as the case may be, or may impose as a penalty a sum not exceeding ten thousand rupees, and may in either case, order the confiscation of articles which are seized ; and

(b) in any case in which any property has been seized as liable to confiscation under this Act, may at any time before an order of confiscation has been passed by a Judicial Magistrate, release the same, on payment of the value thereof as estimated by the Excise Commissioner or the Collector."

(iii) in sub-section (2) for the words "Collector" the words "Excise Commissioner or Collector" shall be substituted.

4. **Insertion of new Section 48-A.**— After Section 48 of the Principal Act, the following section shall be inserted, namely :—

"48-A Special provision for the imposition of penalty by the Excise Commissioner or Collector.— Notwithstanding the limit of Rupees ten thousand prescribed under sub-section (1) of Section 48, the Excise Commissioner or Collector in the event of any breach or contravention of the rules or

conditions of licence, may impose penalty to the extent provided in such rules or conditions of licence under the provisions of this Act."

THE MADHYA PRADESH ENTERTAINMENT DUTY AND ADVERTISEMENTS TAX (AMENDMENT) ACT, 1994

The following Act received the assent of the Governor on the 9th February, 1995; and was published in the "Madhya Pradesh Gazette (Extraordinary)" dated the 16th February, 1995.

MADHYA PRADESH ACT NO. 7 OF 1995

An Act further to amend the Madhya Pradesh Entertainments Duty and Advertisements Tax Act, 1936.

Be it enacted by the Madhya Pradesh Legislature in the Forty-fifth Year of the Republic of India as follows :—

1. **Short title.**—This Act may be called the Madhya Pradesh Entertainments Duty and Advertisements Tax (Amendment) Act, 1994.

2. **Amendment of Section 3.**—After the second proviso to clause (b) of sub-section (1) of Section 3 of the Madhya Pradesh Entertainments Duty and Advertisements Tax Act, 1936 (No. 30 of 1936), the following proviso shall be inserted ;—

"Provided also that if the proprietor proves that such public exhibition of film for commercial purposes was closed for the all the show on any day or days for any reason specified by the State Government or he exhibits a film exempted from entertainments duty, he shall be entitled for proportionate rebate for every such day at the rate of one thirtieth of the amount mentioned in column (2) or (3) as the case may be of the above table."

THE MADHYA PRADESH VANIJYIK KAR (SANSHODHAN) ADHYADESH, 1995

Published in the "Madhya Pradesh Gazette (Extraordinary)" dated 7th February, 1995.

MADHYA PRADESH ORDINANCE NO. 1 OF 1995

An ordinance to amend the Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995).

Whereas the State Legislature is not in session and the Governor of Madhya Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Madhya Pradesh is pleased to promulgate the following Ordinance ;—

1. **Short title and commencement.**—(1) This Ordinance may be called the Madhya Pradesh Vanijyik Kar (Sanshodhan) Adhyadesh, 1995.

2. **Madhya Pradesh Act No. 5 of 1995 to be temporarily amended.**—(1) During the period of operation of this Ordinance, the Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995) (hereinafter referred to as the Principal Act), shall have effect subject to the amendments specified in Sections 3 to 4.

3. **Amendment of Section 1.**—For sub-section (3) of Section 1 of the Principal Act, the following sub-section shall be substituted namely ;—

"(3) It shall come into force on such date as the State Government

may, by notification in the Official Gazette appoint and different dates may be appointed for different provisions of this Act".

4. **Amendment of Section 81.**— In section 81 of the Principal Act, for the opening sentence "The Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959) shall be deemed to have been repealed on 1st April, 1994", the sentence "The Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959) shall stand repealed on the date of coming into force of this Act" shall be substituted.

MOHAMMED SHAFI QURESHI
Governor,
Madhya Pradesh.

Bhopal ;
Dated the 6th February, 1995.

THE MADHYA PRADESH PANCHAYAT RAJ (DWITIYA SANSHODHAN) ADHYADESH, 1994

Published in the "Madhya Pradesh Gazette (Extraordinary)" dated the 7th October, 1994.

MADHYA PRADESH ORDINANCE NO. 4 OF 1995

An Ordinance further to amend the Madhya Pradesh Panchayat Raj Adhiniyam, 1993.

Promulgated by the Governor in the Forty-fifth year of the Republic of India ;

Whereas the State Legislature is not in session and the Governor of Madhya Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action ;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Madhya Pradesh is pleased to promulgate the following Ordinance ;—

1. **Short title.**—The Ordinance may be called the Madhya Pradesh Panchayati Raj (Dwitiya Sanshodhan) Adhyadesh, 1994.

2. **Madhya Pradesh Act No. 1 of 1994 to be temporarily amended.**— During the period of operation of this Ordinance, the Madhya Pradesh Panchayat Raj Adhiniyam, 1993 (No. 1 of 1994) (hereinafter referred to as the Principal Act) shall have effect subject to the amendments specified in Sections 3 to 6.

3. **Amendment of Section 28.**— In Section 28 of the Principal Act, sub-section (1), for the word "members" wherever they occur the words "elected members" shall to substituted.

4. **Amendment of Section 35.**— In Section 35 of the Principal Act, in sub-section (1), for the word "members" wherever they occur the words "elected members" shall be substituted.

5. **Amendment of Section 47.**— For sub-section (5) of Section 47 of the principal Act, the following sub-section shall be substituted, namely,;—

"(5) Every Committee except the General Administration Committee and the Education Committee shall elect from amongst its elected members a Chairperson within such time and in such manner as may be prescribed ;

Provided that—

(i) the President of the Janapad Panchayat or Zila Panchayat, as the case may be, shall be ex-officio Chairperson of the General Administration Committee ;

(ii) the Vice President of the Janapad Panchayat or Zila Panchayat,

nity of being heard in the matter.

(5) The rate at which the premium shall be payable per acre of agricultural land situated at different places of the State, for conversion of its use to any purpose other than agriculture on and after the commencement of the Orissa Land Reforms (Amendment) Act, 1993, shall be as follows :—

(i) Land situated within any Municipal area or in areas within one-half kilometre on either side of such National Highway as the State Government may, by Notification, specify from time to time	...	Rs. 3,00,000
(ii) Land situated in any area within one-fourth kilometre on either side of such State Highways as the State Government may, by Notification, specify from time to time	...	Rs. 1,00,000
(iii) Land situated in a Municipal area or a Notified Area, or in any area notified as urban area under the Orissa Government Land Settlement Rules, 1983 made under the Orissa Government Land Settlement Act, 33 of 1962, other than any land mentioned in clauses (i) and (ii)	...	Rs. 75,000
(iv) Land situated in such developing areas as the State Government may, by notification, specify from time to time	...	Rs 30,000
(v) Land situated in any area not covered by clauses (i), (ii), (iii) and (iv)	...	Five per cent of the market value of such land or Rs 1,000 whichever is more.

Explanation.—For the purposes of this sub-section,—

(a) "Municipal Act" means the Orissa Municipal Act, 23 of 1950 ;

(b) "Municipal area" means the area included in a Municipality constituted under Municipal Act ; and

(c) "Notified area" means a Notified area within the meaning of section 417-A of Municipal Act.

Published in the Orissa Gazette, Extraordinary, dath 15th September, 1994.

THE ORISSA DEVELOPMENT OF INDUSTRIES, IRRIGATION, AGRICULTURE, CAPITAL CONSTRUCTION AND RE-SETTLEMENT OF DISPLACED PERSONS (LAND ACQUISITION) REPEAL ACT, 1994

ORISSA ACT NO. 15 OF 1994

An Act to repeal the Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Re-Settlement of Displaced Persons (Land Acquisition) Act, 1948.

Be it enacted by the Legislature of the State of Orissa in the Forty-fifth Year of the Republic of India, as follows :—

1. **Short title**—This Act may be called the Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Re-Settlement

of Displaced Persons (Land Acquisition) Repeal Act, 1994.

2. Repeal of Orissa Act 18 of 1948.—The Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Re-Settlement of Displaced Persons (Land Acquisition) Act, 18 of 1948 is hereby repealed.

Published in the Orissa Gazette, Extraordinary, dated 11th November, 1993.

THE ORISSA PREVENTION OF DANGEROUS ACTIVITIES OF COMMUNAL OFFENDERS ACT, 1993
ORISSA ACT NO. 18 OF 1993

An Act to provide for preventive detention of communal offenders with a view to preventing their dangerous activities prejudicial to the maintenance of public order and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :—

1. Short title and extent.—(1) This Act may be called the Orissa Prevention of Dangerous Activities of Communal Offenders Act, 1993.

(2) It extends to the whole of the State of Orissa.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "acting in any manner prejudicial to the maintenance of public order" means engaging in or making preparations for engaging in any of the activities which affect adversely or is likely to affect adversely the maintenance of public order.

Explanation.—For the purpose of this clause, public order shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely inter alia, if any of the activities of the communal offenders directly or indirectly is causing or calculated to cause any harm, danger or alarm, or a feeling of insecurity among the general public or any section thereof or a grave or widespread danger to life ;

(b) "communal offender" means a person who, either by himself or as a member or as a leader of a gang or an organisation, commits or attempts to commit or abets or incites the commission of an offence punishable under Section 153 A or 153-B of the Indian Penal Code, 45 of 1860 or under Chapter XV of the said Code or under sub-section (2) of Section 505 thereof ;

(c) "detention order" means an order of detention made under Section 3 ;

(d) "Government" means the State Government of Orissa.

3. Power to make an order detaining communal offenders.—(1) The Government may, if satisfied with respect to any communal offender that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order it is necessary so to do, make an order directing that such person be detained.

(2) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of the District Magistrate, the Government is satisfied that it is necessary so to do, it may, by order in writing, direct that, during such period as may be specified in the order, such District Magistrate may also, if satisfied as provided in sub-

section (1), exercise the powers conferred by the said sub-section :

Provided that the period specified in an order made by the Government under this sub-section shall not, in the first instance, exceed three months, but the Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time

(3) Where any detention order is made by a District Magistrate, he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars, as in his opinion, have a bearing on the matter and no such order shall remain in force for more than fifteen days after the making thereof unless, in the meantime, it has been approved by the Government.

4. **Execution of detention order.**—A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973 (2 of 1974).

5. **Power to regulate place and conditions of detention.**—Every person in respect of whom a detention order has been made shall be liable—

(a) to be detained in such place and under such conditions including conditions as to maintenance of discipline and punishment for breaches of discipline, as the Government may, by general or special order, specify ; and

(b) to be removed from one place of detention to another place of detention within the State by an order of the Government.

6. **Detention orders not to be invalid or inoperative on certain grounds.**—No detention order shall be invalid or inoperative merely by reason—

(a) that the person to be detained thereunder, though within the State is outside the limits of the territorial jurisdiction of the District Magistrate making the order ; or

(b) that the place of detention of such person, though within the State, is outside the limits.

7. **Grounds of detention severable.**—Where a person has been detained in pursuance of a detention order which has been made on two or more grounds, such detention order shall be deemed to have been made separately on each grounds and, accordingly,—

(a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) vague,
(ii) non-existent,
(iii) not relevant,
(iv) not connected or not proximately connected with such person, or
(v) invalid for any other reason whatsoever,

and it is not, therefore, possible to hold that the Government or the District Magistrate making such order, as the case may be, would have been satisfied as provided in Section 3 with reference to the remaining ground or grounds and made the order of detention,

(b) the Government or the District Magistrate making the order of detention, as the case may be, shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds

8 **Powers in relation to absconding persons.**—(1) If the Government, or the District Magistrate mentioned in sub-section (2) of Section 3, as the case may be, has reason to believe that a person, in respect of whom a detention order has been made, has absconded or is concealing himself so that the order cannot be executed, the Government or the District Magistrate may—

(a) make report in writing of the fact to a Judicial Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides ; or

(b) by order, notified in the Official Gazette, direct the said person to appear before such officer, at such place and within such period as may be specified in the order.

(2) Upon the making of a report against any person under clause (a) of sub-section (1), the provisions of Sections 82, 83, 84, 85 and 86 of the Code of Criminal Procedure, 1973 (2 of 1974) shall apply in respect of such person and his property as if the detention order made against him were a warrant issued by the Magistrate.

(3) If any person fails to comply with an order under clause (b) of sub-section (1), he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), every office under sub-section (3) shall be cognizable.

9. **Grounds of detention order to be disclosed to persons affected.**—(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon a may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

10. **Constitution of Advisory Boards.**—(1) The Government shall, whenever necessary, constitute, one or more Advisory Boards for the purposes of this Act.

(2) Every such Board shall consist of a Chairman and two other members, who are, or have been or are qualified to be appointed, as Judges of a High Court.

11. **Reference to Advisory Board.**—In every case where a detention order has been made under this Act, the Government shall, within three weeks from the date of detention of a person under the order, place before the Advisory Board constituted under Section 10, the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in the case where the order has been made by the District Magistrate mentioned in sub-section (2) of Section 3, also the report

by such Magistrate under sub-section (3), of that section.

12. **Procedure of Advisory Board.**—(1) The Advisory Board shall, after considering the materials placed before it and after calling for such further information as it may deem necessary from the Government or from any person called for the purpose through the Government or from the person concerned, and if, in any particular case, the Advisory Board considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the Government within seven weeks from the date of detention of the person concerned.

(2) The Report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential

13. **Action upon report of Advisory Board.**—(1) In any case where the Advisory Board has reported that there is in its opinion, sufficient cause for the detention of a person, the Government may confirm the detention order and continue the detention of the person concerned for such period, not exceeding the maximum period specified in Section 14, as they think fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of the person concerned, the Government shall revoke the detention order and cause the person to be released forthwith.

14. **Maximum period of detention.**—The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under Section 13 shall be twelve months from the date of detention :

Provided that nothing contained in this section shall affect the power of the Government to revoke or modify the detention order at any earlier time.

15. **Revocation of detention order.**—(1) Without prejudice to the provisions of Section 22 of the Orissa General Clauses Act, 1 of 1937, a detention order may, at any time, be revoked or modified by the Government, or any officer authorised in that behalf by the Government, notwithstanding the order has been made by a District Magistrate mentioned in sub-section (2) of Section 3 or by the Government.

(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under Section 3 against the same person, in any case, where fresh facts have arisen after the date of revocation or expiry, on which the Government or the District Magistrate, as the case may be, is satisfied that such an order should be made.

16. **Temporary release of persons detained.**—(1) The Government

may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts and may, at any time, cancel his release.

(2) In directing the release of any person under sub-section (1), the Government may require him to enter into a bond, with or without sureties, for the due observance of the conditions in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing the release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

17. **Protection of action in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Government or any officer or person, for anything done in good faith in pursuance of this Act.

18. **Detention orders against communal offender under this Act and not under National Security Act, 1980.**— On and after the commencement of this Act no order of detention under the National Security Act, 65 of 1980 shall be made by Government or any of its officers under that Act in respect of any communal offender in the State of Orissa on the ground of preventing him from acting in any manner prejudicial to the maintenance of public order, where an order of detention may be, or can be, made against such person under this Act.

Published in the Orissa Gazette, Extraordinary, No. 1947, dated 31st December, 1993.

THE ORISSA CIVIL COURTS (AMENDMENT) ACT, 1993
ORISSA ACT NO. 27 OF 1993

An Act to amend the Orissa Civil Courts Act, 1984.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Orissa Civil Courts (Amendment) Act, 1993.

(2) It shall come into force at once.

2. **Amendment of section 3.**—In section 3 of the Orissa Civil Courts Act, 18 of 1984 (hereinafter referred to as the principal Act), in sub-section (1), for clauses (b) and (c) the following clauses shall be substituted, namely :—

"(b) The Court of the Civil Judge (senior division) which shall include the Court of the Additional Civil Judge (senior division) ; and

(c) The Court of Civil Judge (junior division) which shall include the Court of Additional Civil Judge (junior division).".

3. **Redesignation of Subordinate Judge and Munsif.**—In the principal Act, for the words "Subordinate Judge" and "Munsif" wherever they

occur, the words and brackets "Civil Judge (senior division)" and "Civil Judge (junior division)" shall respectively be substituted.

Published in the Orissa Gazette, Extraordinary, No. 1565, dated 2nd December, 1993.

THE ORISSA MOTOR VEHICLES TAXATION (SECOND (AMENDMENT) ACT, 1993
ORISSA ACT NO. 20 OF 1993

An Act further to amend the Orissa Motor Vehicles Taxation Act, 1975.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :—

1. Short title and commencement.—(1) This Act may be called the Orissa Motor Vehicles Taxation (Second Amendment) Act, 1993.

(2) It shall be deemed to have come into force on the 21st day of September, 1993.

2. Amendment of section 4.—In the Orissa Motor Vehicles Taxation Act, 39 of 1975 (hereinafter referred to as the principal Act), in section 4,—

(a) in the first proviso to sub-section (2), for the words "two hundred rupees", the words "five hundred rupees" shall be substituted ; and

(b) in sub-section (3),—

(i) for the words "transport vehicle,' occurring in the opening portion, the word "vehicle" shall be substituted ; and

(ii) the provisos thereto shall be omitted.

3. Repeal and savings.—(1) The Orissa Motor Vehicles Taxation (Amendment) Ordinance, 6 of 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Published in the Orissa Gazette, Extraordinary, No. 1579, dated 6th December, 1993.

THE ORISSA RURAL EMPLOYMENT, EDUCATION AND PRODUCTION (AMENDMENT) ACT, 1993
ORISSA ACT NO. 21 OF 1993

An Act further to amend the Orissa Rural Employment, Education and Production Act, 1992.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :—

1. Short title and commencement.—(1) This Act may be called the Orissa Rural Employment, Education and Production (Amendment) Act, 1993.

(2) This section, section 7 and section 8 shall be deemed to have come into force on the 27th day of September, 1993 and the remaining provisions of this Act shall be deemed to have come into force on the 1st day of February, 1993.

2. Amendment of section 2.—In section 2 of the Orissa Rural Employment, Education and Production Act, 36 of 1992 (hereinafter referred to as

the principal Act). after clause (a), the following clause shall be inserted, namely :—

"(a-1) "coal bearing land" means any land acquired or declared from time to time under any law for the purpose of obtaining coal ;".

3. **Amendment of section 3.**—In section 3 of the principal Act,—

(a) in sub-section (1), for the words "in the manner hereinafter provided", the words "in the prescribed manner subject to provisions hereinafter contained" shall be substituted ;

(b) in sub-section (2), for clauses (b) and (c), the following clauses shall respectively be substituted, namely :—

"(b) in the case of any mineral bearing land other than coal-bearing land, the rate as may be prescribed from time to time in respect thereof ; and

(b) in the case of coal-bearing land, the rate as specified in the Schedule" ; and

(c) for sub-section (4), the following sub-section shall be substituted, namely :—

"(4) The rate of tax that may either be prescribed in pursuance of clause (b) of sub-section (2) or enhanced or reduced by amendment of the Schedule under sub-section (3), shall be so prescribed or, as the case may be, enhanced or reduced that the rate fixed in the case of—

(i) any mineral bearing land other than coal-bearing land, does not exceed the average annual income from all such mineral-bearing lands in the State during the two consecutive years immediately preceding the year in which the rate is so fixed ; and

(ii) coal-bearing land, does not exceed in the aggregate, fifty per cent of the rate specified in the Schedule on the date of publication of this Act in the Gazette".

4. **Amendment of section 4.**—In section 4 of the principal Act, —

(a) in sub-section (2),

(i) in clause (b), for the word "year" wherever it occurs, the word "period" shall be substituted ;

(ii) in clause (c), for the word, brackets and letter 'clause (b)", the words, brackets and letters "clauses (b) and (c)" shall be substituted ; and

(iii) the proviso to clause (d) shall be omitted ; and

(b) after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) The notified authority shall recover the assessed amount of the tax and penalty, if any, as an arrear of land revenue".

5. **Amendment of section 8.**— In section 8 of the principal Act, in sub-section (3), the words "and that such fine shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue" shall be added at the end.

6. **Amendment of Schedule.**— In the Schedule to the principal Act, for the words "Land bearing Coal" appearing in column (1) thereof, the words "Coal bearing land" shall be substituted.

7. **Validation.**— (1) Notwithstanding anything contained in any judgment, decree or order of any Court, all actions taken, things done, Rules made, Notifications issued or purported to have been taken, done, made or issued and taxes realised under or in pursuance of the principal Act prior

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of publication of the notification in the Official Gazette or the receipt of the order by him, as the case may be, and the Government may make such order on the application as it may deem proper ;

Provided that pending a decision by the Government on the application submitted under the above paragraph, no manufacturer, importer or distributer, as the case may be, shall sell a bulk drug or formulation, as the case may be, at a price exceeding the price fixed by the Government of which a review has been applied for.

23. Power to issue guidelines and directions.—(1) The Government, may for the purpose of implementing the provisions of this Order, authorise any Officer, by a general or special order, to inspect the premises of any manufacturer, importer, distributor or dealer and such manufacturer importer, distributor or dealer shall allow such authorised officer and make available all relevant information required for the purpose.

(2) The Government may, from time to time, issue such guidelines and directions, consistent with the provisions of this Order to any manufacturer or importer as may be necessary to carry out the provisions of this Order and such manufacturer or importer shall comply with such guidelines and directions.

24. Penalties.—Any contravention of any of the provisions of this Order shall be punished in accordance with the provision of the Essential Commodities Act, 1955 (10 of 1955).

25. Power to exempt.—(1) Government may, having regard to the factors mentioned in sub-paragraph (2) and subject to such conditions as it may specify, by an order in the Official Gazette, exempt any manufacturer from the operation of all or any of the provisions of this Order.

(2) While granting exemption under sub-paragraph (1), the Government shall have regard to all or any of the following factors,—

(a) number of workers employed ;
(b) amount of capital invested ;
(c) range/group and type of products manufactured ;
(d) sales turnover ;
(e) production of bulk drugs from basic stage by a process developed through indigenous research and development, and which is significantly different from known processes and results in cost reduction ;
(f) production of a new drug which has not been produced elsewhere, developed through indigenous research and development.

26. Delegation of powers.—The Government may, by notification in the Official Gazette, direct that all or any of the powers conferred upon it by this Order, other than those contained in paragraphs 22, 23 and 25 shall, subject to such restrictions, exceptions and conditions, as may be specified in the direction, be exercisable also by such Officer or authority as may be specified in the notification.

27. Repeal and saving.—(1) The Drugs (Prices Control) Order, 1987 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken, including any notification or Order made, direction given, notice issued or exemption granted under the Drugs (Prices Control) Order, 1987, shall, in so far as it is not inconsistent with the provisions of this Order, be deemed to have been done, taken, made, given, issued or granted, as the case may be, under the corresponding provisions of this Order.

THE FIRST SCHEDULE
(See Paragraphs 2 and 3)
Bulk Drugs

1. Sulphamethoxazole
2. Penicillins
3. Tetracycline
4. Rifampicin
5. Streptomycin
6. Ranitidine
7. Vitamin C
8. Betamethasone
9. Tetronidazole
10. Chloroquine
11. Insulin
12. Erythromycin
13. Vitamin A
14. Oxytetracycline
15. Prednisolone
16. Cephazolin
17. Methyldopa
18. Aspirin
19. Trimethoprim
20. Cloxacillin
21. Sulphadimidine
22. Salbutamol
23. Famotidine
24. Ibuprofen
25. Metamizol (Analgin)
26. Doxycycline
27. Ciprofloxacin
28. Cefotaxime
29. Dexamethasone
30. Ephedrine
31. Vatamin B1 (Thiamine)
32. Carbamazepine
33. Vitamin B2 (Riboflavin)
34. Theophylline
35. Levadopa
36. Tolnaftate
37. Vitamin E
38. Nalidixic Acid
39. Griseofulvin
40. Gentamicin
41. Dextropropoxyphene
42. Halogenated Hydroxyquinoline
43. Pentazocine
44. Captopril
45. Naproxen
46. Pyrental
47. Sulphadoxine
48. Norfloxacin
49. Cefadroxyl
50. Panthonates & Panthenols
51. Furazolidone
52. Pyrithioxine
53. Sulphadiazine
54. Framycetin
55. Verapamil
56. Amikacin sulphate
57. Glipizide
58. Spironolactone
59. Pentoxyfyllin
60. Amodiaquin
61. Sulphamoxole
62. Frusemide
63. Pheniramine Maleate
64. Chloroxylenols
65. Becampicillin
66. Lincomicin
67. Chlorpropamide
68. Methyldroline
69. Chlorpromazine
70. Methendienone
71. Phenyl Butazone
72. Lynestranol
73. Salazosulphapyrine
74. Diosmine
75. Trimipramine
76. Mefenamic Acid

THE SECOND SCHEDULE
FORMS

Form I
(To be submitted in Duplicate)
[See Paragraphs 2, 3 and 4]

Form of information/application for fixation or revision of prices of Scheduled bulk drugs.

1. Name of the bulk drug.

2. Name of Manufacturer.
3. Address of Registered/Head Office of the Manufacturer.
4. Address of the Factory.
5. Capacity under Industrial Licence/Small Industry Registration/Industrial Entrepreneur Memorandum acknowledgement :—
(a) No. and date of Industrial Licence/Small Scale Industry Registration/Industrial Entrepreneur Memorandum acknowledgement ;
(b) Production Capacity (Tonnes/Kgs./Litres etc.)
6. Installed Capacity :
(a) Number of shifts per day ;
(b) Number or operating days per year ;
(c) Maximum production per shift (Tonnes/Kgs./Litres etc.) ;
(d) Date of commissioning ;
(e) Annual installed capacity.
7. Date of commencement of commercial production.
8. Actual production achieved during the last accounting year (preferably monthwise) and also monthly production during the current year (Tonnes/Kgs./Litre. etc.).
9. Brief note on the manufacturing process adopted by you indicating all stages including recovery of by-products, if any, solvents etc. and stage-wise overall yield for each bulk drug.
10. Average hourly rate of production for each of the bulk drug since the commencement of the commercial production.
11. Maximum hourly rate of production achievable.
12. Estimated production of the bulk drug during the next three years.
13. If the production is proposed to be captively consumed for manufacture of the formulation, please furnish the quantity to be so consumed out of the production given against Serial No. 8 and Serial No. 12.
14. Capital employed for the manufacture of the bulk drug(s) :—
(a) Net fixed assets ;
(b) Working Capital ;
(c) Total.
15. Please state how the above capital employed is financed by net worth and borrowings.
(In the case of multi-purpose plant the capital employed/net worth as above and the share to be allocated to the bulk drug/intermediate under consideration to be given.)
16. Please state average rate of interest paid by you on your borrowings, supported by figures of the amount of loans, average rate of interest etc. as per latest audited Balance Sheet.
17. Please furnish latest c.i.f. price of the bulk drug if the same had been imported or is being imported by you or by any other agency known to you.
18. Please furnish the cost of production of the bulk drug as per Annexure to this Form duly certified by a Practising Cost Accountant/Chartered Accountant.
19. Please furnish number of persons employed/to be employed, grade-wise, and their average monthly emoluments including contribution on account of Provident Fund etc.
20. Please furnish the total amount of expenses under each of the

element of other conversion costs viz. stores, factory and administration overheads and depreciation and the basis adopted for allocation to the product in question.

21. If the item is manufactured/to be manufactured in a multi-product plant, the method adopted for allocations to individual drugs for common expenses viz. process hours, equipment hours etc. may be furnished.

22. Please also furnish the following :—

(a) The types of packing materials used and their average rates ;

(b) Basis and calculations of profit margin ;

(c) Photocopies of invoices of raw materials having substantial consumption and also for power, fuel oil etc. ;

(d) Details of the fixed assets, method of depreciation, rate of depreciation along with working capital required for the product ;

(e) A copy each of audited Balance Sheet and Profit and Loss Account for the last three years in the case of a company copies of the latest Cost Audit Report and Annual Report.

Notes :

(1) Any hold up affecting production to be shown clearly against Serial No. 8.

(2) In case the same plant facilities are used for production of more than one product, the information as per Serial No. 6 may be given product-wise.

ANNEXURE

(See item No. 18 of the Form I of the First Schedule)

I. Name of the Bulk Drug.

II. (a) Production in Tonnes/Kgs./Litres etc.

(b) Sales in Tonnes/Kgs./Litres etc.

(c) Despatches in Tonnes/Kgs./Litres etc.

III. Details of Cost :—

(a) Period ;

(b) Cost Data :

Sl. No.	Particulars	Norms of Consumption guaranteed by the knowhow supplier or as per standards developed		Actual Consumption (Per kg./litre etc. of the product)		
			Unit	Quantity	Rate/Unit (Rs.)	Amount (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Raw Materials :—					
	(a) Imported					
	1.					
	2.					
	3. etc.					
	(b) Indigenous					
	1.					
	2.					
	3. etc.					
	Total raw material cost :					

(1)	(2)	(3)	(4)	(5)	(6)	(7)

Less Recoveries of Solvents ;
Net Raw Material Cost :

2. Utilities ;—
   (a) Power
   (b) Water
   (c) Fuel (Oil/Coal)
   (d) Other (To be specified)
   Total Utilities Cost.

3. Conversion Cost :—
   (a) Salaries and wages
   (b) Operating supplies or consumable stores
   (c) Repair and Maintenance
   (d) Quality Assurance
   (e) Effluent treatment
   (f) Other factory overheads
   (g) Administration overheads
   (h) Research and Development expenses
   (i) Depreciation
   Total Conversion Cost.

4. Cost of production (1+2+3).
5. Interest on borrowings.
6. Minimum Bonus.
7. Total (4+5+6).
8. Packing ;—
   (a) Materials
   (b) Other expenses
   Total Packing Cost.
9. Selling Expenses.
10. Transport Charges.
11. Transit Insurance Charges.
12. Non-Recoverable Taxes.
(Please specify and submit details along with supporting documents)
13. Total cost of sales.
14. Profit Margin, (Basis of calculations be submitted.)
15. Selling Price (13+14)
16. Price notified by the Government, if any.
(Please give No. and date of Notification)
17. Actual sale price or Notional price, if used captively.

Notes :—
1. Items of expenses to be excluded from costs :
   (a) Bonus in excess of statutory minimum
   (b) Bad debts and Provisions
   (c) Donations and charities
   (d) Loss/Gain on sale of assets
   (e) Brokerage and commission
   (f) Expenses not recognised by Income Tax authorities (Salary, perquisites, advertisements etc.)

(g) Adjustment relating to previous years.

2. In the case of imported new materials, please furnish separately the c.i.f. price, date of customs and other charges totalling to the landed cost adopted against S. No. 1 (a).

3. Cost of intermediates manufactured for captive use should be on the basis of factory cost of production inclusive of administration overheads and shown separately against S. No. 1 (g) (sic). A separate cost-sheet in the same proforma may please be appended.

4. Cost of generated utility like power, steam etc. should be separately given the details of purchased utilities consumed, rate and cost with other expenses incurred on generation with reference to S. No. 2.

5. Details in respect of factory overheads, administration overheads and selling expenses should be furnished against S. No. 3 (d), 3 (e) and 8.

6. The basis of depreciation adopted in your financial accounts may please be given against S. No. 3 (f).

7. Please indicate clearly whether the existing price is notified by the Government or notional price against S. Nos. 16 and 17.

8. The information furnished in this form is to be certified by the authorised signatory of the company and by the Cost Accountant/Chartered Accountant.

The information furnished above is correct and true to the best of my knowledge and belief.

Authorised Signatory :

Place :

Name :

Date :

Designation :

FORM II

(To be submitted in duplicate)

(See Paragraphs 2 and 5)

Form of information in respect of price of non-Scheduled bulk drugs.

1. Name of the bulk drug.
2. Name of the manufacturer.
3. Address of the Registered/Head Office of the Manufacturer.
4. Address of the Factory.
5. Capacity under Industrial Licence/Small Scale Industry Registration/Industrial Enterpreneure Memorandum acknowledgement :

(a) Number and date of Industrial Licence/Small Scale Industry Registered/Industrial Enterpreneure Memorandum acknowledgement :

(b) Production Capacity (Tonnes/Kgs./Litres etc.)

6. Annual Installed Capacity.
7. Date of commencement of commercial production.
8. Actual production achieved during the last accounting year/current year (Tonnes/Kgs./Lits. etc.)
9. Brief note on the manufacturing process.
10. Estimated production of the bulk drug for next three years.
11. If the production is proposed to be captively consumed for manufacture of formulation, please furnish the quantity to be so consumed out of the production given against Sl. Nos. 8 and 10.
12. Please furnish latest c.i.f. price of the bulk drug if the same had

been imported or is being imported by you or any agency known to you.

13. Please furnish the cost of the bulk drug as under :—

I. Name of the bulk drug.
II. Period,
III. Major Raw Materials :—
Name ;
Quantity consumed per Kg. of Product ;
Cost per Kg. of Product.
IV. Total Raw Material Cost.
V. Cost of production.
VI. Cost of Sales.
VII. Profit Margin.
VIII. Selling Price (VI+VII).
IX- Existing price with effective date.

14. Please furnish a copy each of the audited Balance Sheet, Profit and Loss Account for the last three years and the latest Cost Audit Report and Annual Report.

Note.—The information furnished in this Form is to be certified by the authorised signatory of the Company and by the Cost Accountant/ Chartered Accountant.

The information furnished above is correct and true to the best of my knowledge and belief.

Authorised Signatory :
Name :
Designation :

Place :
Date :

FORM III

(To be submitted in seven copies)
(See Paragraphs 2, 8, 9 & 10)

Form of Application for approval or revision of price of Scheduled formulations

1. Name of Formulation.
2. Name of the Manufacturer.
3. Address of Registered/Head Office/Administrative Office.
4. Address of the Factory.
5. Composition as per label claim and approved by Drug Control Authorities.
6. Drug Control Authority Permission Number and Date (copy to be enclosed).
7. Number and date of Industrial Licence/Small Scale Industry Registration/Industrial Entrepreneure Memorandum acknowledgement (copy to be enclosed).
8. Dat of Commencement of Production.
9. Type of formulation :—

(i) Type (Plain/Coated Tablets, Multi-layered sustained release/ Soft/Hard/Printed capsules (without/with/sealing band/sterile/non-sterile. Liquid/Powder/Ointment/Cream etc.) ;
(ii) In case of Tablets please furnish average weight o f 100 Tablets ;
(iii) In case of Capsules please furnish size of capsule.

10. Type of packing (Aluminium/Paper/Cellophane/Strips/Blister/Vials/Ampoules/White Colour Bottles/Tins/Jars with/without dropper cutting blades/catch cover etc.).

11. Size of packs [10's/100's/etc. ; 1 ml/2 ml/10 ml/etc. ; 5 gms/10 gms etc.].

12. Number of Packs sold during the last accounting year and details of other packs of the same formulation with their retail prices.

13. Break-up of Retail Price :—

Details	Existing Price if any* (Rs./Pack)	Now Claimed (Rs./Pack)
(a) Material Cost [as per S. No. 14 (d)] ;		
(b) Conversion Cost (as per norms) ;		
(c) Packing Material Costs (as per S. No. 15 or as per norms) ;		
(d) Packing Charges ;		
(e) Ex-factory Cost (a) to (d) ;		
(f) MAPE 100% on (e) above ;		
(g) Excise Duty ;		
(h) Retail Price (R.P.) (e)+(f)+(g)		

*Existing Retail Price Approval Letter No. and Date—copy to be enclosed.

14. Material Cost :—

(a) Batch Size (No./Litres/Kgs. etc.) ;

(b) No. of packs that can be theoratically obtained from the batch size as in (a) above.

(c) Material Cost for the batch size as in (a) above ;

Sl. No.	Name of the Material	Unit	Theoretical Quantity	Actual Overages	Total Quantity (4+5)	Rate/ Unit	Cost for the Batch (6×7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Imported							
1.							
2.							
3.							
etc.							
Indigenous							
1.							
2.							
3.							

Total———————— :

Add : Process loss as per norms—% :

Total Material Cost———————— :

$$\text{Material Cost per Pack} = \frac{\text{Total Material Cost}}{\text{Theoretical No. of Packs}}$$

15. Packing Material Costs :—
Packs of————
Batch Size————Tablets/Gms etc. each

Sl. No.	Name of the Packing Material	Unit	Rate per Unit (Rs.)	Qty. Required per Batch	Value of Packing Material/ Batch (Nos./Kgs. etc.) (Rs.)
1	2	3	4	5	6
Imported					
1.					
2.					
3.					
Indegenous					
1.					
2.					
3.					
etc.					

Total————————————:
And : Process loss as per norms——%:
Total Packing Material Cost————:

$$\text{Packing Material Cost per Pack} = \frac{\text{Total Packing Material Cost}}{\text{No. of Packs as per Batch Size}}$$

Note :

1. The information furnished in this form is to be certified by the authorised signatory of the company and Cost Accountant/Chartered Accountant.

2. In respect of bulk drug and major raw materials the following documents shall be enclosed :—

(a) A Statement indicating the purchases made during the last three months with copies of invoices certified by Cost Accountant/Chartered Accountant shall be enclosed.

(b) Certified copies of recent batch production records or, in case production has not commenced, other documents maintained under Drugs and Cosmetics Act and the Rules made thereunder, in support of the quantities of raw materials claimed.

3. The rates claimed shall be net of modvat, wherever applicable.

4. Basis and calculation of excise duty [S. No. 13 (g)] to be given.

The information furnished above is correct and true to the best of my knowledge and belief.

Place :
Date :

Authorised Signatory :
Name :
Designation :

FORM IV

(To be submitted in seven copies)

[See Paragraphs 7, 8, 9 and 10)

Form of application for approval or revision of price of Scheduled formulations imported in finished form.

1. Name of the company.
2. Address of the Registered/Head Office/Factory, if any.
3. Reference to Permission, if any, given by Drug Control Authorities for import/sale of the item.
4. Name of the imported formulation/therapeutic group.
5. Type of formulation (capsule/tablet/inj. etc.)
6. Composition of the formulation.
7. Type of Packs (strip/vial/ampoule etc,)
8. Pack size (10's etc:/10ml etc./5 gms etc.)
9. Country from which imported and date of import.
10. Quantity/Number of packs imported with Batch/Lot Number.
11. C.I.F. Value in Foreign Currency.

(Not to include bank commission, interest etc.)

	Total (Rs.)	Per Pack (Rs.)

12. C.I.F. Value in Rs. actually paid.

(Not to include bank commission, interest etc.)

13. Duty of customs, if any, actually paid.
14. Clearing Charges (with details) actually incurred.
15. Landed cost (12+13+14).
16. Packing Materials, if any, as per norms.

(Applicable in case of repacking.)

17. Packing Charges, if any, as per norms.
18. Landed Cost (including repacking cost, if any). (15+16+17)
19. Margin @ 50%.
20. Duty of Excise, if any.
21. Retail price claimed (18+19+20).
22. Existing retail price, if any :

(copy of approval letter to be enclosed).

NOTES :—

(i) Information furnished should be certified by the Authorised Signatory of the company and a Cost/Chartered Accountant.

(ii) In respect of Sl. Nos. 11 to 14 and 16, the claims shall be supported by certified copies of documentary evidence.

The information furnished above is correct and true to the best of my knowledge and belief.

Authorised Signatory :

Place : Name :

Date : Designation :

FORM V

(See Paragraphs 2, 14 and 15)

Form of Price List

1. Name and addres of the manufacturer/importer/distributor.

2. Name and address of the marketing company, if any.
3. Details of Prices :—

Sl. No.	Name of the Product (Bulk Drug/Formulation and its dosage forms)	Composition approved by Drug Control Authorities	Specifications of the Pack	
			Type(*)	Size(**)
1	2	3	4	5
A. BULK DRUGS				
1.				
2.				
3. etc.				
B. FORMULATIONS				
I. Own Production				
1.				
2.				
3. etc.				
II. Purchased				
1.				
2.				
3. etc.				

Excise Duty, if any		Local Tax if any Amount	Price to be Retailed (inclusive of Excise Duty)	Retal Price (inclusive of Excise Duty)	Maximum Retail price incl. of All Taxes	Effective Batch No. and Dat
Rate	Amount	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)
6	7	8	9	10	11	12

(*) Strip, Bottle etc.
(**) 10's, 100's, 1 ml, 1 gm. etc.

NOTES :

1. Information to be given separately for Scheduled and Non-Scheduled Items.

2. In case of purchased formulation, name of the manufacturer shall be indicated.

3. The price list must be signed by the authorised sighatory of the manufacturers, importer or distributor.

FORM VI

[See Paragraphs 2 and 20 (2)]

(omitted.)

THE THIRD SCHEDULE

[See Paragraph 10]

Specified maximum pre-tax return on sales turnover of manufacturers or importers of formulations :—

Category A :

Large units with turnover exceeding Rs. 6 Crores per annum :

(a) having no basic drug manufacturing activity nor any research activity.....eight per cent.

(b) having basic drug manufacturing activity at five per cent or more of the turnover but no research activity.....nine per cent.

(c) having basic drug manufacturing activity at five per cent or more of the turnover and engaged in approved research and development work related to new drugs..... .....ten per cent.

Category B :

Medium sized units with turnover between Rs. 1 Crore to 6 Crores per annum :

(a) having no basic drug manufacturing activity nor any research activity.....nine per cent.

(b) having basic drug manufacturing activity at five per cent or more of the turnover but no research activity.....eleven per cent.

(c) having basic drug manufacturing activity at five per cent or more of the turnover and engaged in approved research and development work related to new drugs.....thirteen der cent.

Category C ;

Other units with turnover of less than Rs. 1 Crore per annum :

(a) having only formulation activity.....twelve per cent.

(b) having basic drug manufacturing activity at five per cent or more of the turnover.....thirteen per cent.

Published in the Gazette of India, (Extra.), Part II Section 3(i), No. 14 dated January 9, 1995.

MINISTRY OF COAL

G.S.R. 20(E).—*(New Delhi, the 9th January, 1995)*.—In exercise of the powers conferred by section 3 read with section 16 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order further to amend the Colliery Control Order, 1945, namely :—

1. (1) This Order may be called **the Colliery Control (Amendment) Order, 1995.**

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Colliery Control Order, 1945, after clause 17, the following clause shall be added, namely :—

"18. Notwithstanding anything contained in this Order, the Central Government may, if it considers it necessary for avoiding any hardship or for any other just and sufficient reasons, by notification in the Official Gazette, exempt any class or category of persons including colliery owners, coal companies and purchasers of coal under written agreements for supply of coal with such coal companies from all or any of the provisions of this Order, either generally or for any specified period and subject to such conditions, if any, as may be specified in the said notification.

Published in the Gazette of India, (Extra.), Part II, Section 3(i), No. 23, dated January 16, 1995.

MINISTRY OF FINANCE

G.S.R. 29(E).—*(New Delhi, the 16th January, 1995)*.—In exercise of the

powers conferred by sub-section (2) of section 37, read with section 12D of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules to amend the Consumer Welfare Funds Rules, 1992, namely :—

1. (1) These rules may be called the **Consumer Welfare Fund (Amendment) Rules, 1995.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. (i) In sub-rule (2) of rule 5 of the Consumer Welfare Fund Rules, 1992,—

(a) for clause (a) and the entry relating thereto, the following shall be substituted, namely :—

"(a) The Secretary Ministry of Civil Supplies, Consumer Affairs and Public Distribution, who shall be the Chairman of the Committee."

(b) for clause (g) and the entry relating thereto, the following shall be substituted, namely :—

"(g) The Joint Secretary of Consumer Welfare Fund in the Ministry of Civil Supplies, Consumer Affairs and Public Distribution, who shall be the Member Secretary of the Committee."

(ii) In sub-rule (6) of Rule 6 of the Consumer Welfare Fund Rules, 1992, the word "four" shall be substituted by the word "three".

Published in the Gazette of India, (Extra.), Part II Sec. 3(i), No. 28, dated January 19, 1995.

MINISTRY OF FINANCE

G.S.R. 37(E).—*(New Delhi, the 19th January, 1995).*—In exercise of the powers conferred by section 6 and section 37 of the Central Excises and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. These rules may be called **the Central Excise (Amendment) Rules, 1995.**

2. In the Central Excise Rules, 1944,—

(a) in sub-rule (6) of rule 52A and sub-rule (5) of rule 57-GG, for the words and figure "running for the whole year beginning on the 1st January of each year", at both the places where they occur, the words and figure "running for the whole financial year beginning on the 1st April of each year" shall be substituted ;

(b) in rule 57G, in sub-rule (2), in the first proviso, for the words "or Bill of Entry", the words "Bill of Entry, a certificate issued by an Appraiser of Customs posted in Foreign Post Office" shall be substituted ;

(c) in rules 57-GG, after sub-rule (4), the following sub-rule shall be inserted, namely :—

"(4a) (a) The invoice shall be made out in quadruplicate. The original copy shall be for the buyer, the duplicate for the transporter, the triplicate shall be sent to the proper officer and the quadruplicate shall be retained by the registered person.

(b) The copies of the invoice shall be marked at the top in bold capital letters in the following manner namely :—

(i) the original copy shall be marked as ORIGINAL FOR BUYER ;

(ii) the duplicate copy shall be marked as DUPLICATE FOR TRANSPORTER (to be used for taking credit under rule 57-G or, as the case may be, for making reciept entries in register maintained under this rule) ;

(iii) the triplicate copy shall be marked as TRIPLICATE FOR CENTRL EXCISE ; and

(iv) the quadruplicate copy shall be marked as QUADRUPLICATE FOR REGISTERED PERSON".

Published in the Gazette of India, (Extra.), Part II Sec. 3(ii), No. 61, dated January 31, 1995.

MINISTRY OF FINANCE

S.O. 70(E).—*(New Delhi, the 31st January, 1995).*—In exercise of the powers conferred by section 46 of the Wealth-tax Act, 1957 (27 of 1957), the Central Board of Direct Taxes hereby makes the following rules further to amend the Wealth-tax Rules, 1957, namely :—

1. (1) These rules may be called **the Wealth-tax (First Amendment) Rules, 1995.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Wealth-tax Rules, 1957, in rule 8-A, in sub-rule (2),—

(a) for clause (i), the following clause shall be substituted, namely :—

"(i) he must—

(A) be a graduate in civil engineering, architecture or town planning of a recognised university ; or

(B) be a post-graduate in valuation of real estate from a recognised university ; or

(C) possess a qualification recognised by the Central Government for recruitment to superior services or posts under the Central Government in the field of civil engineering, architecture or town planning ; and" ;

(b) in clause (ii), in sub-clause (B), after the words "consulting engineer,", the words "valuer of real estate", shall be inserted.

Published in the Gazette of India, (Extra.), Part II Sec. 3(ii), No. 17, dated January 6, 1995.

MINISTRY OF FINANCE

S.O. 17(E).—*(New Delhi, the 6th January, 1995)*—In exercise of the powers conferred by section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby make the following rules further to amend the Income-tax Rules, 1962, namely :—

1. (1) These rules may be called **the Income-Tax (First Amendment) Rules, 1995.**

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Income-tax Rules, 1962, in rule 17C, after clause (ii), the following clause shall be inserted, namely :—

"(iii) deposits made with an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both."

---

11. List of movable assets (As per Annexure 'B')

(Signature)
Full Name.. . .....

ANNEXURE 'A'

Immovable properties owned or held by the Councillor and or his family members

S. No.	Location/ Address	When acquired	In whose name held	Value when acquired	Made of acquisition	Remarks
1	2	3	4	5	6	7

(Signature of the Councillor)
Full Name.....

ANNEXURE 'B'

Movable assets owned or held by the Councillor and his family members
(Please state every movable asset value at Rs. 10,000 or more)

S. No.	Item	When purchased	In whose name	Value when purchased

(Signature of the Councillor)
Full Name..... .....

Published in the Gazette of India, Extraordinary, Part II, Section 3(i), dated 4th February, 1995.

MINISTRY OF HEALTH AND FAMILY WELFARE

G.S.R. 51 (E).—*(New Delhi, the 4th February, 1995).*—In exercise of the powers conferred by sub-section (1) of Section 24 of the Transplantation of Human Organs Act, 1994 (42 of 1994), the Central Government hereby makes the following rules, namely :—

1. **Short title and commencement.**—(1) These rules may be called **the Transplantation of Human Organs Rules, 1995.**

(2) They shal come into force on the date of their publication in the Official Gazette.

2. **Definitions.**—(a) "Act" means the Transplantation of Human Organs Act, 1994 (42 of 1994) ;

(b) "Form" means a form annexed to these Rules ;

(c) "Section" means a section of the Act ;

(d) Words and expressions used and not defined in these Rules, but defined in the Act, shall have the same meanings respectively assigned to them in the Act.

3. **Authority for Removal of Human Organs.**—Any donor may authorise the removal, before his death, of any human organs of his body for therapeutic purpose in the manner and on such conditions as specified in Form 1.

4. **Duties of the Medical Practitioner.**—(1) A registered medical practitioner shall, before removing a human organ from the body of a donor before his death satisfy himself—

(a) that the donor has given his authorisation in Form 1 ;

(b) that the donor is in proper state of health and is fit to donate the organ, and shall sign a certificate as specified in Form 2 ;

(c) that the donor is a near relative of the recipient, and shall sign a

certificate as specified in Form 3 after carrying out the following tests on the donor and the recipient, namely :—

(i) tests for the antigenic products of the Human Major Histocompatibility system HLA-A, HLA-B and HLA-DR using conventional serological techniques ;

(ii) tests to establish HLA-DR beta and HLA-DQ beta gene restriction fragment length polymorphism ;

(iii) where the tests referred to in sub-clause (i) and sub-clause (ii) do not establish a genetic relationship between the donor and the recipient tests to establish DNA polymorphisms using at least two multi-locus gene probe ;

(iv) where the tests referred to in sub-clause (iii) do not establish a genetic relationship between the donor and the recipient further tests to establish DNA polymorphysms using at least five single locus polymorphic probes.

(d) in case recipient is a spouse of the donor, record the statements of the recipient and the donor to the effect that, that are so related and shall sign a certificate in Form 4.

(2) A registered medical practitioner shall, before removing a human organ from the body of a person after his death satisfy himself—

(a) that the donor had, in the presence of two or more witnesses (at least one of whom is a near relative of such person), unequivocally authorised as specified in Form 5 before his death, the removal of the human organ of his body, after his death, for therapeutic purposes and there is no reason to believe that the donor had subsequently revoked the authority aforesaid ;

(b) that the person lawfully in possession of the dead body has signed a certificate as specified in Form 6 or Form 7.

3. A registered medical practitioner shall, before removing a human organ from the body of a person in the event of his brain-stem death, satisfy himself—

(a) that a certificate as specified in Form 8 has been signed by all the members of the Board of medical expert referred to in sub-section (6) of section 3 of the Act ;

(b(that in the case of brain-stem death of a person of less than eighteen years of age, a certificate specified in Form 8 has been signed by all the members of the Board of medical experts referred to in sub-section (6) of section 3 of the Act and an authority as specified in Form 9 has been signed by either of the parents of such person.

5. **Preservation of organs.**—The organ removed shall be preserved according to current and accepted scientific method in order to ensure viability for the purpose of transplantation.

6. The donor and the receipient shall make jointly an application to grant approval for removal and transplantation of a human organ, to the Authorisation Committee as specified in Form 10.

7. **Registration of Hospital.**—(1) An application for registration shall be made to the Appropriate Authority as specified in Form 11. The application shall be accompanied by a fee of rupees one thousand payable to the Appropriate Authority by means of a bank draft or postal order.

(2) The Appropriate Authority shall, after holding an inquiry and

after satisfying itself that the applicant has complied with all the requirements, grant a certificate of registration, as specified in Form 12 and shall be valid for a period of five years from the date of its issue and shall be renewable.

8. Renewal of Registration.—(1) An application for the renewal of a certificate of registration shall be made to the Appropriate Authority within a period of three months prior to the date of expiry of the original certificate of registration and shall be accompanied by a fee of rupees five hundred payable to the Approprirte Authority by means of a bank draft or a postal order.

(2) A renewal certificate of registration shall be as specified in Form 13 and shall be valid for a period of five years.

(3) If, after an inquiry including inspection of the hospital and scrutiny of its past performance and after giving an opportunity to the applicant, the Appropriate Authority is satisfied that the applicant, since grant of certificate of registration under sub-rule (2) of Rule 7 has not complied with the requirements of this Act and the Rules made thereunder and conditions subject to which the certificate of registration has been granted, shall, for reasons to be recorded in writing, refuse to grant renewal of the certificate of registration.

9. Conditions for grant of Registration of Certificate.—No hospital shall be granted a certificate of registration under this Act unless it fulfills the following requirement of manpower, equipment, specialised services and facilities as laid down below :—

General Requirement—

1. Surgical Staff
2. Cardiology Staff
3. Nursing Staff
4. Communication System
5. Intensivist
6. Medical Social Worker
7. Perfusionist

Various Department—

1. Microbiology
2. Mycology
3. Pathology
4. Virology
5. Nephrology
6. Neurology
7. Psychology
8. G.I. Surgery
9. Anaesthesiology
10. Imaging Facilities
11. Paediatrics
12. Physiotherapy
13. Immunology
14. Hahmatology
15. Blood Bank
16. Clinical Chemistry
17. Cardiology

Non-Transplantation Programme Team—

1. Neurologist
2. Neurosurgeon
3. Medical Surintendent
4. And other Hospital Staff

Basic Equipment—

Operating Room facilities for routine open heart surgery which includes heart lung m chine and accessories.

Addrtional Equipment required for Transplantation Programme

1. Cell Saver.
2. Assist devices like IABP, Centrifugal Pump and various assist devices, both pneumatic and electric operated.
3. Mobile C-arm, image intensifier for routine biopsis in the sterile operating room.
4. Eact/Alert System for early detection of an infection.
5. Radioimmunoassy for measuring Cyclosporine levels.
6. Routine Laboratory facilities for detection of HIV, Australia antigen, CMV, Toxoplasmosis and other Mycology Tests.

Experts

(A) **Kidney Transplantation.**—M.S. (Gen.) Surgery or equivalent qualification with three years post M.S. training in a recognised centre in India or abroad and having attended to adequate number of rental transplantation as an active member of team.

(B) **Transplantation of Liver & Other Abdominal Organs.**—M.S. (Gen.) Surgery or equivalent qualification with adequate post M.S. training in an established centre with a reasonable experience of performing liver transplantation as active member of team.

(C) **Cadiac, Pulmonary, Cardio-pulmonary Transplantation.**- M. Ch. Cardio-thorasic and vascular surgery or equivalent qualification in India or abroad with at least 3 years experience as an active member of the team performing an adequate number of open heart operations per year and well-versed with Coronary by-pass surgery and Heart-valve surgery.

10. **Appeal.**—(1) Any person aggrieved by an order of the Authorisation Committee under sub-section (6) of Section 9, or by an order of the Appropriate Authority under sub-section (2) of Section 15 and Section 16 of the Act, may, within thirty days from the date of receipt of the order, prefer an appeal to the Central Government.

(2) Every appeal shall be in writing and shall be accompanied by a copy of the order appealed against.

FORM I

(See rule 3)

I, ..., aged..... ... ...
s/o, d/o, w/o, Mr. .. .. resident of
....
hereby authorise to remove for therapeutic purposes/consent to donate my organ, namely..... .....to.

(i) Mr./Mrs..... .....s/o, d/o w/o, Mr.....
...., aged .....
resident of..... .....
...who happens to be my near relative as defined in clause (i)

of section 2 of the Act.

OR

(ii) Mr./Mrs.....
s/o, d/o, w/o, Mr.....
aged.....resident of.....
.....towards whom I possess special affection or attachments, or for any special reason (to be specified).

I certify that the above authority/consent has been given by me out of my own free will without any undue pressure, inducement, influence or allurement and that the purposes of the above authority/donation and of all possible complications, side-effects, consequences and options have been explained to be before giving this authority or consent or both.

Signature of the Donor

FORM 2
[See rule 4(1)(b)]

I, Dr. .....possessing qualification of.....registered as medical practitioner at Serial No.....by the..... .....Medical Council, certify that I have examined Shri/Smt./Kum.....
s/o, d/o, w/o.....
aged.....whose free and informed consent about donation of the organ, namely.....
to Shri/Smt./Kum.....
s/o, d/o, w/o.....who is near relative of the donor and that the said donor is in proper state of health and is..... .....medically fit to be subjected to the procedure of organ removal.

Place..... Signature
Dated.....

FORM 3
[See rule 4(1)(c)]

I, Dr.....possessing qualification of .....registered as med. practitioner at Serial No.....by the..... Medical Council, certify that Mr./Mrs.....
s/o, d/o, w/o,.....
aged..... .....the douor, and Mr./Mrs.....
s/o, d/o, w/o.....
aged.....the receipient of the organ donated by the said donor are related to each other as brother/sister/mother/father/son/daughter as per their statement and the fact of this relationship has been established by the results of the tests for Antigenic Products of the Human Major Hysto-compatibility System, namely,..... by the Authorisation Committee as per the information contained in their letter of approval No.....dated.....

Place..... Signature
Dated.....

FORM 4

[See rule 4(1)(d)]

I, Dr. ..... possessing qualification of.....registered as medical practitioner at Serial No..... ....by the. ..... Medical Council, certify that—

(i) Mr..... .... s/o..... .... eged..... .... resident of..... ....and Mrs..... .... d/o, w/o.. .....aged.. .... resident of..... .....are related to each other as spouse according to the statement given by them and their statement has been confirmed by means of following evidence before effecting the organ removal from the body of the said Shri/Smt./Kum..... .... (Applicable only in the cases whare considered necessary).

(ii) ' The Clinical condition of Shri/Smt..... mentioned above is such that recording of his/her statement is not practicable.

Place..... Signature of Regd. medical practitioner
Dated.....

FORM 5

[See rule 4(2)(a)]

I,.....s/o, d/o, w/o..... .....aged.....resident of..... ....in the presence of persons mentioned below hereby unequivocally authorise the removal of my organ/organs, namely, ...from my body after my death for therapeutic purposes.

Signature of the Donor
Dated..... .....

(Signature)
1. Shri/Smt./Kum.....
s/o, d/o, w/o..... ....
aged.....
resident of.. ....

(Signature)
2. Shri/Smt./Kum..... .....
s/o, d/o, w/o..... ....
aged.....
resident of.....
is a near relative to the donor as..... .....
Dated.....

FORM 6

[See rule 4(2)(b)]

I,.....s/o, d/o, w/o..... ....aged.....resident of..... .....having lawful possession of the dead body of Shri/Smt./Kum.....s/o, d/o, w/o.....

.....aged.....resident of .....having known that the deceased has not expressed any objection to his/her organ/organs being removed for therapeutic purposes after his/her death and also having reasons to believe that no near relative of the said deceased person has objection to any of his/her organs being used for therapeutic purposes authorise removal of his/her body organs, namely,.....

Signature

Dated.....
Place.....

Person in lawful possession of the dead body.

Address.....

.....

FORM 7

[See rule 4(2)(b)]

I, Mr./Mrs./Miss.....having lawful possession of the dead body of Mr./Mrs./Miss .....
son of/daughter of/wife of.....
aged .....resident of.....
.....after having known that no objection was expressed by the deceased to any of his human organ being used after his death for therapeutic purposes and having reason to believe that no near relative of the deceased person has objection to any of the deceased person's organ being used for therapeutic purposes, hereby authorise the removal of the deceased's organ, namely,.....for therapeutic purposes.

Signature.....
Name.....
Address.....
.....
Time and date.....

FORM 8

[See rule 4(3)(a) and (b)]

We, the following members of the Board of medical experts after careful personal examination hereby certify that Shri/Smt./Kum.....
.....aged about.....
son of/wife of/daughter of.....
resident of .....
.....is dead on account of permanent and irreversible cessation of all functions of the brain-stem. The tests carried out by us and the findings therein are recorded in the brain-stem death Certificate annexed hereto.

Dated.....

Signature.....

1. R.M.P., Incharge of the Hospital in which brain-stem death has occurred.

2. R.M.P., nominated from the panel of names approved by the Appropriate Authority.

3. Neurologist/Neuro-Surgeon nominated from the panel of names approved by the Appropriate Authority.

4. R.M.P., treating the aforesaid deceased person.

Brain-stem Death Certificate

(A) Patient Details :

1. Name of the patient — Mr/Ms..... ....
S.O./D.O./W.O. — Mr.....
.....
Sex.....Age.....

2. Home Address — ....
....
.....

3. Hospital Number — ....

4. Name and Address of next of kin or person responsible for the patient (if none exists, this must be specified). — ....
....
....
....

5. Has the patient or next of kin agreed to any transplant ? — .....

6. Is this a Police Case ? — .....

(B) Pre-conditions :

1. Diagnosis : Did the patient suffer from any illness or accident that led to irreversible brain damage ? Specify details.....
.....
.....
.....
Date and time of accident/onset of illness.....
Date and onset of non-responsible coma.....

2. Findings of Board of Medical Experts :

(1) The following reversible causes of coma have been excluded ;
Intoxication (Alcohol).
Depresent Drugs
Relaxants (Neuromuscular blocking agents).

	First Medical Examination		Second Medical Examination	
	1st	2nd	1st	2nd
Primary hypothermia				
Hypovolaemic shock				
Metabolic or endocrine disorders				
Tests for absence of brain-stem functions.				
(2) Coma				
(3) Cessation of spontaneous breathing ..				
(4) Pupillary size ...				
(5) Pupillary light reflexes ...				
(6) Doll's head eye movements ...				
(7) Corneal reflexes (Both sizes) ...				
(8) Motor response in any cranial nerve distribution, any responses to stimulation of face, limb or trunk ...				
(9) Gag reflex ...				

(10) Cough (Tracheal) ..
(11) Eye movements on coloric testing .. bilaterally ...
(12) Apmoea tests as specified ...
(13) Were any respiratory movements seen ? ...

Date and time of first testing : ....
Date and time of second testing : ....

This is to certify that the patient has been carefully examined twice after an interval of about six hours and on the basis of findings recorded above,

Mr./Ms..... ..... is declared brain-stem dead.

1. Medical Administrator Incharge of the hospital.
2. Authorised specialist.
3. Neurologist/Neuro-Surgeon.
4. Medical Officer treating the patient.

N.B.—I. The minimum time interval between the first testing and second testing will be six hours.

II. No. 2 and No. 3 will be co-opted by the Administrator Incharge of the hospital from the Panel of experts approved by the appropriate authority.

FORM 9

[See rule 4 (3) (b)]

I, Mr./Mrs..... .....son of/wife of..... .....resident of..... ..... hereby authorise removal of the organ/organs, namely..... ..... for therapeutic purpose from the dead body of my son/daughter Mr./Ms. .... aged..... ... whose brain-stem death has been duly certified in accordance with the law.

Signature———
Name———
Place———
Date———

FORM 10

Application for approval for Transplantation live Donor other than near relative

Whereas I,———S/O, D/O, W/O, L/O———aged———residing at———have been informed by my doctor that I am suffering from———and may be benefitted by transplantation of———into my body.

And whereas I———S/O, D/O, W/O———aged———residing at———by reason of affection and attachment because :

———

———

(reason to be filled in)

would like to donate my———————to———————
We———————and———————
(Donor) (Receipient)
hereby apply to authorisation committee for permission for such transplantation to be carried out.

We solemnly affirm that the above decision has been taken without any undue pressure, inducement, influence or allurement and that all possible consequences and options of organ transplantation have been explained to us.

Signature and address of prospective donor	Signature and address of prospective receipient

FORM 11

Application for Registration of Hospital to carry out Organ Transplantation

To

The Appropriate Authority for organ transplantation———————
(State or Union Territory)

We hereby apply to be recognised as an institution to caary out organ transplantation. The required data about the facilities available in the hospital are as follows :—

(A) **Hospital**

1. Name ... ... ———————
2. Location ... ... ———————
3. Govt./Pvt. ... ... ———————
4. Teaching/Non-teaching ... ———————
5. Approached by ....

Road : Yes No
Rail : Yes No
Air : Yes No

6. Tototal bed strength ... ———————
7. Name of the disciplines in the hospital ... ———————
8. Annual budget ... ———————
9. Patient turn-over/year ... ———————

(B) **Surgical Team** :

1. No. of beds ... ———————
2. No. of permanent staff members with their designations ... ———————
3. No. of temporary staff with their designations ... ———————
4. No. of operations done per year ———————
5. Trained persons available for transplantation (Please specify organ for transplantation) ... ———————

(C) **Medical Team :**

1. No. of beds ... ———————
2. No. of permanent staff members with their designation ... ———————
3. No. of temporary staff members

with their designation ... _____

4. Patient turnover per year ... _____

5. No. of potential transplant candidates admitted per year ... _____

(D) **Anaesthesiology**

1. No. of permanent staff members with their designations ... _____

2. No. of temporary staff members with their designations ... _____

3. Name and No. of operations performed ... _____

4. Name and No. of eqnipments available ... _____

5. Total No. of operation theatres in the hospital ... _____

6. No. of emergency operation theatres ... _____

7. No. of separate transplant operation theatre ... _____

(E) **I.C.U./H.D.U. Facilities :**

1. ICU/HDU facilities ... Present _____
Not present _____

2. No. of I.C.U. beds ... _____

3. Trained :

Nurses ... _____

Technicians ... _____

4. Name and number of equipments in I.C.U.

(F) **Other Supportive Facilities :**

Data about facilities available in the hospital.

(G) **Laboratory Facilities :**

1. No. of permanent staff with their designations.

2. No. of temporary staff with their designations.

3. Names of the investigations carried out in the Deptt.

4. Name and number of equipments available.

(H) **Imaging Services :**

1. No. of permanent staff with their designations.

2. No. of temparary staff with their designations.

3. Names of the investigations carried out in the Deptt.

4. Name and number of equipments available.

(I) **Haematology Services :**

1. No. of permanent Staff with their designations.
2. No. of temporary staff with their designations.
3. Names of the investigations carried out in the Deptt.
4. Name and number of equipments available.

(J) **Blood Bank Facilities :** Yes——————No——————
(K) **Dialysis Facilities :** Yes——————No——————
(L) **Other Personnel :**

1.	Nephrologist	Yes/No
2.	Neurologist	Yes/No
3.	Neuro-Surgeon	Yes/No
4.	Urologist	Yes/No
5.	G.I. Surgeon	Yes/No
6.	Paediatrician	Yes/No
7.	Physiotherapist	Yes/No
8.	Social Worker	Yes/No
9.	Immunologist	Yes/No
10.	Cardiologist	Yes/No

The above said information is true to the best of my knowledge and I have no objection to any scrutiny of our facility by authorised personnel. A Bank Draft/Cheque of Rs. 1,000/- is being enclosed.

Sd/-
Head of the Institution

FORM 12

Certificate of Registration

This is to certify that—— —— Hospital located at—— —— —— —— —— has been inspected by the Appropriate Authority and certificate of registration is granted for performing the organ transplantation of the following organs :

1. ——————
2. ——————
3. ——————
4. ——————

This certificate of registration is valid for a period of five years from the date of issue.

Signature —————— Signature ——————

FORM 12

[See rule 8 (2)]

Office of the Appropriate Authority

This is with reference o the application, dated —— —— from —— —— (Name of the hospital) for renewal of certificate of registration for performing organs transplantation under the Act.

After having considered the facilities and standards of the above-said hospital, the Appropriate Authority hereby renews the certificate of registration of the said hospital for the purpose of performing organ transplan-

tation for a period of five years.

Appropriate Authority ———

Place———

Date ———

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 565, dated 10th November, 1994.

MINISTRY OF HOME AFFAIRS

S.O. 806 (E).—*(Dated 10th November, 1994).*—In exercise of the powers conferred by Section 511-A of **the Delhi Municipal Corporation Act, 1957** (66 of 1957), the Central Government hereby specifies the tenth day of November, 1994 as the date from which all the provisions in the said Act, existing prior to **Delhi Municipal Corporation (Amendment) Act, 1993** (67 of 1993), relating to prevention and extinguishing of fire and matters connected therewith or incidental thereto, shall cease to operate.

Published in the Gazette of India, Extraordinary, Part II, Section 3(ii), No. 565, dated 10th November, 1994.

MINISTRY OF HOME AFFAIRS

S.O. 807 (E).—*(Dated 10th November, 1994).*—In exercise of the powers conferred by Section 490-A of **the Delhi Municipal Corporation Act, 1957** (66 of 1957), the Central Government hereby directs that, subject to its control and until further orders, the powers under Section 511-B of the said Act shall be exercised by the Lt. Governor, National Capital Territory of Delhi.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 458, dated 7th November, 1994.

MINISTRY OF FINANCE

G.S.R. 792 (E).—*(Dated 7th November, 1994).*—In exercise of the powers conferred by Section 37 of the Central Excise and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (1) These rules may be called **the Central Excise (Amendment) Rules, 1994.**

(2) They shall come into force on the date of their publication in the Official Gazette.

In the Central Excise Rules, 1944, in Rule 57-H, in sub-rule (1),—

(i) after the words "received by a manufacturer" and before the words "immediately before obtaining the dated acknowledgement", the following shall be inserted, namely :—

"under any invoice or under any document as may be prescribed by the Central Board of Excise and Customs (constituted under the Central Board of Revenue Act, 1963 (54 of 1963)".

(ii) after the word "before" and before the word "obtaining" the words "or after" shall be inserted ;

(iii) the first proviso shall be omitted ;

(iv) in second proviso the word "further" shall be omitted.

Published in the Gazette of India, Extraordinary, Part II, Section 3 (i), No. 286, dated 4th July, 1994.

MINISTRY OF FINANCE

G.S.R. 560 (E).—*(Dated 4th July, 1994).*—In exercise of the powers conferred by Section 6 and Section 37 of the Central Excises and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely :—

1. (i) These rules may be called **the Central Excise (Amendment) Rules, 1994.**

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. After Rule 57-G of the Central Excise Rules, 1944 (hereinafter referred to as the said rules), the following rule shall be inserted, namely :—

"**57-GG. Accounting procedure for the persons issuing invoices under Rule 57-G or Rule 57-T.**—(1) Every person, who issues invoice or invoices under Rule 57-G or, as the case may be, under Rule 57-T shall get registered under Rule 174.

(2) He shall maintain a stock account in the form RG-23D.

(3) The registered person shall maintain the RG-23D register at the end of the day of receipt and issue of excisable goods; and he shall :—

(a) at the time of making any entry, insert the date when the entry is made ;

(b) correctly keep such book, account or register in the manner required, under these rules and shall not cancel, obliterate, or alter any entry therein, except for correction of any errors ;

(c) keep the book, account or register at all times ready for the inspection by the officers, and shall permit any officer to inspect it and make any such minute therein or any extract therefrom, as such officer thinks fit.

(d) at any time, if demanded by the officer, send the records, referred to in clause (c), to the proper officer.

(4) The registered person shall issue an invoice containing the details as prescribed by the Central Board of Excise and Customs or as the case may be Collector of Central Excise ;

(5) Each invoice shall bear a printed serial number running for the whole year beginning on the 1st January of each year. Only one invoice book of each type shall be used by the registered person for removal of excisable goods at any one time unless otherwise specially permitted by the Collector in writing.

(6) Each foil of the invoice book shall be authenticated by the owner or the working partner, or the Managing Director or the Company Secretary, as the case may be, before being brought into use by the registered person. The serial number of the invoice, before being brought into use, shall be intimated to the Assistant Collector of Central Excise and a dated acknowledgment of receipt of such intimation shall be retained by the registered person. When the invoice is generated through computor the serial number likely to be used in the forthcoming quarter shall be intimated to the Assistant Collector of Central Excise and as soon as the same is exhausted a revised intimation may be sent. Records and invoice generated through computer are also recognised. Such registered dealers shall send details of the software used including the formate for information of the

Assistant Collector of Central Excise.".

3. In Rule 173-Q of the said rules,—

(a) for the words "manufacturer, producer or registered person of warehouse" wherever they occur, the words "manufacturer, producer, registered person of a warehouse or a registered dealer" shall be substituted ;

(b) for the words "gate pass" wherever they occur, the word "invoice" shall be substituted ;

(c) in sub-rule (1), for clause (bbb), the following clause shall be substituted, namely :—

"(bbb) enters wilfully any wrong or incorrect particulars in the invoice issued for the excisable goods dealt by him with intent to facilitate the buyer to avail of credit of the duty of excise in respect of such goods which is not permissible under these rules.".

4. In Rule 174 of the said rules, in sub-rule (1), for the words "wholesale" wherever it occurs shall be omitted.

5. In Rule 174 of the said rules, in sub-rule (1), after the words "otherwise use the excisable goods", the words, figures and letters "or a person who issues invoice or invoices under Rules, 57-G or, as the case may be, Rule 57-T" shall be inserted.

6. In Rule 209 of the said rules,—

(a) for the words "manufacturer, producer or registered person of a warehouse" wherever they occur, the words "manufacturer, producer, registered person of warehouse or a registered dealer" shall be substituted ;

(b) for the words "gate pass" wherever they occur, the word "invoice" shall be substituted ;

(c) in sub-rule (1) of clause (bbb), the following clause shall be substituted, namely :—

"(bbb) enters wilfully any wrong or incorrect particular in the invoice issued for particular in the invoice issued for the excisable goods dealt by him with intent to facilitate the buyer to avail of credit of the duty of excise in respect of such goods which is not permissible under these rules ;

Pro-forma for issue of invoice under Rule 57-G or 57-T

Serial No.

1. (a) Name and Address of registered person issuing the invoice including Central Excise Range, Division and Collectorate

(b) (i) Central Excise Registeration No. :

(ii) Sales Tax Registration No. :

(iii) Permanent Income Tax No. or GIR, if any

(c) Description of goods

(d) Identification marks and number, if any

(e) Quantity (No./Weight/Litre/Metre)

(f) Value in Rupees (both in words and figures)

(g) Tariff classification

(h) Invoice No.

(i) Date and Time of Issue (both in words and figures) of the invoice of registered persons issuing the invoice

(j) Rate and Amount of duty charged (both in words and figures)

2. (a) Name and Address of buyer including Central Range Division and Collectorate

(b) (i) Registration No.

(ii) Sales Tax Registration No.

(iii) Permanent Income Tax No. or GIR, if any, of buyer

3. (a) Name and Address of Supplier or Suppliers from whom excisable goods have been received by a person under Sl. No. 1 above issuing invoice under Rule 57-G or 57-T including Central Excise Range, Division and Collectorate

(b) (i) Central Excise Registration No.

(ii) Sales Tax Registration No.

(iii) Permanent Income Tax No. or GIR, if any

(c) Description of Goods

(d) Identification marks and number, if any

(e) Quantity/(No./Weight/Litre/Metre)

(f) Value in Rupees (both words and figures).

(g) Tariff classification

(h) Invoice No.

(i) Date and Time of issue (both in words and figures) of the invoiee of suppliers

(j) Rate and Amount of duty paid (both in words and figures)

4. (a) Name and Address of manufacturer/importer if he is not supplier

(b) Address of Central Excise formation i.e. Central Excise Range, Division and Callectorate

(c) Description of goods

(d) Identification marks and number, if any

(e) Quantity (No./Weight/Litre/Metre)

(f) Value in Rupees (both in words and figures)

(g) Tariff classification

(h) Invoice No.

(i) Date and Time of issue (both in words and figures) of the invoice of manufacturer or importer under S. No. (a) above

RG-230

Pro-forma for Records of Receipts of Duty-paid Goods and Issue thereof

[See Rule 57 66(2)]

Provided that the Chairperson may, in respect of any land or building which was originally treated as one property but which subsequently passes on by transfer, succession or in any other manner to two or more persons who divide the same into several parts and occupy them in several, treat, subject to any bye-law made in this behalf, each such several part, or two or more of such several parts together, as a separate property and assess such part or parts to property tax accordingly.

79. Assessment in case of amalgamation of premises.—If any land or building bearing two or more municipal numbers, or portions thereof, be amalgamated into one or more new premises, the Corporation shall on such amalgamation assign to them one or more number and assess them to property tax accordingly :

Provided that the total assessment on amalgamation shall not be greater than the sum of the previous assessments of the several premises except when there is any re-valuation of any of the said premises.

80. Power of Chairperson to assess separately outhouses and portions of buildings.—The Chairperson may in his discretion assess any outhouse appurtenant to a building, or any portion of a land or building separately from such building or as the case may be, from the rest of such land or building.

81. Power of Chairperson to employ valuers.—(1) The Chairperson may, if he thinks fit, employ one or more competent persons to give advice or assistance in connection with the valuation of any land or building, and any person so employed shall have power, at all reasonable times and after giving due notice, and on production, if so required, of authorisation in writing in that behalf from the Chairperson, to enter on, survey and value any land or building which the Chairperson may direct him to survey and value.

(2) No person shall wilfully delay or obstruct any such person in the exercise of any of his powers under this section.

Tax on Vehicles and Animals

82. Tax on certain vehicles and animals and rates thereof.— Save as otherwise provided in this Act, a tax at the rates not exceeding those specified in the Second Schedule shall be levied on vehicles and animals of the description specified in that Schedule which are kept within New Delhi.

83. The tax on whom leviable.—The tax on vehicles or animals shall be leviable upon the owner of or the person having possession or control of, such vehicles or animals in respect of which the tax is leviable :

Provided that in the case of an animal generally used or employed in drawing any vehicle, the tax in respect of such animal shall be leviable upon the owner of, or the person having possession or control of, such vehicle whether or not such animal is owned by such owner or person :

Prdvided further that the tax under this section shall not be levied in respect of—

(a) vehicles and animals belonging to the Central Government or to the Government or to the Council used or intended to be used solely for public purposes ;

(b) vehicles intended exclusively for the conveyance free of charge, of the injured, the sick or the dead ;

(b) children's perambulators or tricycles ;

(d) a cow or a she-buffalo kept for milking for domestic use if the cow or the she-buffalo is the only cow or she-buffalo kept by the owner or person having possession or control thereof for such milking and is registered in accordance with bye-laws made in this behalf, so, however, that—

(i) where more cows or, as the case may be, more she-buffaloes than one are kept by several such owners or persons consisting a family, the tax under this section shall be levied in respect of all such cows or all such she-buffaloes ;

(ii) where a cow and also a she-buffalo are kept by the owner or the person having the possession or control thereof or by several such owners or persons constituting a family; the tax under this section shall be levied in respect of the cow and the she-buffalo.

84. Tax when payable.—The tax on vehicles or animals shall be payable in advance in such number of instalments and in such manner as may be determined by bye-laws made in this behalf.

85. Power of Chairperson to compound with livery stable keeper etc. for tax.—The Chairperson may with the approval of the Council, compound for any period not exceeding one year at a time, with any livery stable keeper or other person keeping vehicles for hire or animals for sale or hire, for a lump sum to be paid in respect of the vehicles or animals so kept in lieu of the taxes leviable under section 82 which such livery stable keeper or other person would otherwise be liable to pay.

Theatre-tax

86. Theatre-tax.—Save as otherwise provided in this Act, there shall be levied a tax (referred to in this Act as theatre-tax) in respect of every cinema theatre, circus, carnival and other place of entertainment to which persons are ordinarily admitted on payment for performances or shows held or conducted thereat, at such rates not exceeding those specified in the Third Schedule as the Council may determine :

Provided that the theatre-tax shall not be levied in respect of any performance or show if the Chairperson is satisfied—

(a) that the entire receipts from such performance or show will be devoted to philanthropic, religious or charitable purposes ; or

(b) that the performance or show is of a wholly education character ; or

(c) that the performance or show is provided for partly educational or partly scientific purposes by a society not conducted or established for profit.

87. Liability to pay theatre-tax.—Every proprietor, manager, or person-in-charge of a theatre, cinema, circus, carnival or other place of entertainment shall be liable to pay the theatre-tax and shall pay the same in advance before the commencement of the performances or shows :

Provided that the Chairperson may, with the approval of the Council, compound for any series of performances or shows or for any period not exceeding one month, with such proprietor, manager or person for a lump sum to be paid for such series of performances or shows or for the performances or shows held or conducted during such period.

Tax on advertisements other than advertisements published in the newspapers

88. Tax on advertisements.—(Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall, boarding, frame, post or

structure or upon or in any vehicle any advertisement or, who displays any advertisement to public view in any manner whatsoever, vehicle from a public street or public place (including any advertisement exhibited by means of cinematographers), shall pay for every advertisement which is so erected, exhibited, fixed or retained or so displayed to public view, a tax calculated at such rates not exceeding those specified in the Fourth Schedule as the Council may determine :

Provided that no tax shall be levied under this section on any advertisement which—

(a) relates to a public meeting, or to an election to Parliament or the Legislative Assembly of Delhi ; or

(b) is exhibited within the window of any building if the advertisement relates to the trade, profession or business carried on in that building ; or

(c) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same ; or

(d) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building ; or

(e) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration ; or

(f) relates to any activity of the Central Government or the Government or the Council.

(2) The tax on any advertisement leviable under this section shall be payable in advance in such number of instalments and in such manner as may be determined by bye-laws made in this behalf.

Explanation 1.—The word "structure" in this section includes any movable board on wheels used as an advertisement or an advertisement medium.

Explanation 2.—The word "advertisement" in relation to a tax on advertisement under this Act means any word, letter, model, sign, placard, notice, device or representation, whether illuminated or not, in the nature of an employed wholly or in part for the purposes of advertisement, announcement or direction.

89. Prohibition of advertisements without written permission of the Chairperson.—(1) No advertisement shall be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or shall be displayed in any manner whatsoever in any place within New Delhi without the written permission of the Chairperson granted in accordance with the bye-laws made under this Act.

(2) The Chairperson shall not grant such permission if—

(a) the advertisement contravenes any bye-law made under this Act ; or

(b) the tax, if any, due in respect of the advertisement has not been paid,

(3) Subject to the provisions of sub-section (2), in the case of an

advertisement liable to the advertisement tax, the Chairperson shall grant permission for the period to which the payment of the tax relates and no fee shall be charged in respect of such permission.

90. **Permission of the Chairperson to become void in certain cases.**—The permission granted under section 89 shall become void in the following cases namely :—

(a) if the advertisement contravenes any bye-law made under this Act ;

(b) if any material change is made in the advertisement or any part thereof without the previous permission of the Chairperson ;

(c) if the advertisement or any part thereof falls otherwise than through accident ;

(d) if any addition or alteration is made to, or in the building wall, hoarding, frame, post or structure upon or over which the advertisement is erected, exhibited , fixed or retained if such addition or alteration involves the disturbance of the advertisement or any part thereof ; and

(e) if the building, wall, hoarding, frame, post or structure over which the advertisement is erected, exhibited, fixed or retained is demolished or destroyed.

91. **Presumption in case of contravention.**—Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post or structure or upon or in any vehicle or displayed to public view from a public street or public place in contravention of the provisions of this Act or any bye-laws made thereunder, it shall be presumed, unless and until contrary is proved, that the contravention has been committed by the person or the persons on whose behalf the advertisement purports to be or the agents of such person or persons.

92. **Power of Chairperson in case of contravention.**—If any advertisement is erected, exhibited, fixed or retained in contravention of the provisions of section 89, the Chairperson may require the owner or occupier, of the land, building, wall, hoarding, frame, post or structure or vehicle upon, or over or in which the same is erected, exhibited, fixed or retained, to take down or remove such advertisement or may enter any land, building, property or vehicle and have the advertisement dismissed, taken down or removed or spoiled, defaced or screened.

Duty on transfer of property

93. **Duty on transfer of property and method of assessment thereto.**—(1) Save as otherwise provided in this Act, the Council shall levy a duty on transfer of immovable property situated within the limits of New Delhi in accordance with the provisions hereafter in this section contained.

(2) The said duty shall be levied—

(a) in the form of a surcharge on the duty imposed by the Stamp Act, 1899 (2 of 1899) as in force for the time being in the National Capital Territory of Delhi, on every instrument of the description specified below, and

(b) at such rate as may be determined by the Council not exceeding five percent on the amount specified below against such instruments :

Description of instrument	Amount on which duty should be levied
(i) Sale of immovable	The Amount of value of the consider-

property	tion for the sale, as set forth in the instrument.
(ii) Exchange of immovable property	The value of the property of the greater value, as set forth in the instrument.
(iii) Gift of immovable property	The value of the property as set forth in the instrument.
(iv) Mortgage with possession of immovable property.	The amount secured by the mortgage as set forth in the instrument
(v) Lease in perpetuity of immovable property.	The amount equal to one sixth of the whole amount or value of the rent which would be paid or delivered in respect of the first fifty years of the lease as set forth in the instrument.

94. Provisions applicable on the introduction of transfer duty.—On the introduction of the duty on transfers of property—

(a) section 27 of the Stamp Act, 1899 (2 of 1899) as in force in the National Capital Territory of Delhi shall be read as if it specifically required the particulars to be set forth separately in respect of property situated within and without New Delhi ;

(b) section 64 of the said Act shall be read as if it referred to the Council as well as the Government of National Capital Territory of Delhi.

Tax on buildings payable alongwith the application for sanction of building plans

95. Tax on building applications.—(1) Save as otherwise provided in this Act the Council shall levy a tax on buildings at such rates not exceeding those specified in the Fifth Schedule as the Council shall determine.

(2) The tax shall be leviable on every person who makes an application to the Chairperson for the sanction of building plan and shall be payable alongwith the same.

Other taxes

96. Imposition of other taxes.—(1) The Council may, at a meeting, pass a resolution for the levy of any of the taxes specified in sub-section (2) of section 60, defining the maximum rate of the tax to be levied, the class or classes of persons or the description or descriptions of articles and properties to be taxed, the system of assessment to be adopted and the exemptions, if any, to be granted,

(2) Any resolution passed under sub-section (1) shall be submitted to the Central Government for its sanction, and if sanctioned by that Government, shall come into force on and from such date as may be specified in the order of sanction.

(3) After a resolution has come into force under sub-section (2), the Council may, subject to the maximum rate, pass a second resolution determining the actual rates at which the tax shall be leviable and the tax shall come into force on the first day of the quarter of the year next following the date on which such second resolution is passed.

(4) After a tax has been levied in accordance with foregoing provisions of this section, the provisions of sub-section (2) of section 55, shall apply in relation to such tax as they apply in relation to any tax imposed under sub-section (1) of section 60.

Supplementary taxation

97. Supplementary taxation.—Whenever the Council decides to have

recourse to supplementary taxation under sub-section (2) of section 57 in any year, it shall do so by increasing from such date as the Council may determine, the rates at which any tax leviable under this Act is being levied, but every such increase shall be made subject to the maximum rate and any other limitation specified in respect of such tax.

Payment and recovery of taxes

98. Time and manner of payment of taxes.—Save as otherwise provided in this Act, any tax levied under this Act shall be payable on such dates, in such number of instalments and in such manner as may be determined by bye-laws made in this behalf.

99. Presentation of bill.—(1) When any tax has become due, the Chairperson shall cause to be presented to the person liable for the payment thereof, a bill for the amount due :

Provided that no such bill shall be necessary in the case of—

(a) a tax on vehicles and animals ;
(b) a theatre-tax ; and
(c) a tax on advertisements.

(2) Every such bill shall specify the particulars of the tax and the period for which the charge is made.

100. Notice of demand and notice fee.—(1) If the amount of the tax for which a bill has been presented under section 99 is not paid within fifteen days from the presentation thereof, or if the tax on vehicles and animals or the theatre-tax on advertisements is not paid after it has became due, the Chairperson may cause to be served upon the person liable for the payment of the same a notice of demand in the form set forth in the Sixth Schedule.

(2) For every notice of demand which the Chairperson causes to be served on any person under this section, a fee of such amount not exceeding five rupees as may be determined by bye-laws made in this behalf, shall be payable by the said person and shall be included in the cost of recovery.

101. Penalty in case of default of payment of taxes.—(1) If the person liable for the payment of any tax does not, within thirty days of the service of the notice of demand under section 100 pay the sum due and if no appeal is preferred against such tax, he shall be deemed to be in default.

(2) When the person liable for the payment of any tax is deemed to be in default under sub-section (1), such sum not exceeding twenty percent of the amount of the tax as may be determined by the Chairperson, may be recovered from him by way of penalty, in addition to the amount of the tax and the notice fee, payable under sub-section (2) of section 100.

(3) The amount due as penalty under sub-section (2) shall be recoverable as an arrear of tax under this Act.

102. Recovery of tax.—(1) If the person liable for the payment of the tax does not, within thirty days from the service of the notice of demand, pay the amount due, such sum together with all costs and the penalty provided for in section 101 may be recovered under a warrant, issued in the form set forth in the Seventh Schedule by distress and sale of movable property or the attachment and sale of the immovable property, of the defaulter :

Provided that the Chairperson shall not recover any sum the liability

for which has been remitted on appeal under the provisions of this Act.

(2) Every warrant issued under this section shall be signed by the Chairperson.

103. Distress.– (1) It shall be lawful for any officer or other employees of the Council to whom a warrant issued under section 102 is addressed to distrain, wherever it may be found in any place in New Delhi, any movable property, or any standing timber, growing crops or grass belonging to the person therein named as defaulter, subject to the following conditions, exceptions and exemptions, namely :–

(a) the following property shall not be discussed :—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children and their cooking and eating utensils ;

(ii) tools of artisans ;

(iii) books of account ; or

(iv) when the defaulter is an agriculturist his implements of husbandry, seed, grain and such cattle may be necessary to enable the defaulter to earn his livilhood ;

(b) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any property has been distrained which, in the opinion of the Chairperson, should not have been distrained, it shall forthwith be released.

(2) The person charged with the execution of a warrant of distress shall forthwith make an inventory of the property which he seizes under such warrant, and shall, at the same time. give a written notice in the form set forth in the Eighth Schedule, to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned.

104. Disposal of distressed property and attachment and sale of immovable property.—(1) When the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Chairperson shall give notice to the person in whose possession the property was at the time of seizure that it will he sold at once, and shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid.

(2) If the warrant is not in the meantime suspended by the Chairperson, or discharged, the property seized shall, after the expiry of the period named in the notice served under sub-section (2) of section 193 be sold by public auction by order of the Chairperson.

(3) When a warrant is issued for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge, and declaring that such property would be sold unless the amount of tax due with all costs of recovery is paid into the municipal office within fifteen days from the date of the attachment.

(4) Such order shall be proclaimed at some place on or adjacent to property by beat of drum or other customary mode and a copy of the order shall be affixed on a conspicuous part of the property and upon a conspicuous part of the municipal office and also, when the property is land paying revenue to the Government, in the office of the Collector.

(5) Any transfer of or charge on the property attached or any interest therein made without written permission of the Corporation shall be void as against all claims of the Council enforceable under the attachment.

(6) The surplus of the sale proceeds, if any, shall, immediately after the sale of the property, be credited to the New Delhi Municipal Fund, and notice of such credit shall be given at the same time to the person whose property has been sold or his legal representative and if the same is claimed by written application to the Chairperson, within one year from the date of the notice, refund thereof shall be made to such person or representative.

(7) Any surplus not claimed within one year as aforesaid shall be the property of the Council.

(8) For every distraint and attachment made in accordance with the foregoing provisions, a fee of such amount not exceeding two and a half per cent of the amount of the tax due as shall in each case be fixed by the Chairperson, shall be charged, and the said fee shall be included in the costs of recovery.

105. Recovery from a person about to leave New Delhi or Delhi.– (1) If the Chairperson has reason to believe that any person from whom any sum is due or is about to become due on account of any tax is about to move from New Delhi or Delhi he may direct the immediate payment by such person of the sum so due or about to become due and cause a notice of demand for the same to be served on such person.

(2) If, on the service of such notice, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress or attachment and sale in the manner hereinafter provided, and the warrant of distress or attachment and sale may be issued and executed without any delay.

106. Power to institute suit for recovery.—Instead of proceeding against a defaulter by distress and sale as hereinbefore provided, or after a defalter has been so proceeded against unsuccessfully or with partial success, any sum due or the balance of any sum due, as the case may be, from such defaulter on acconnt of tax may be recovered from him by a suit in any court of competent jurisdiction.

107. Power of seizure of vehicles and animals in case of non-payment of tax thereon.—(1) If the tax on any vehicle or animal is not paid, then, instead of proceeding against the defaulter by distress and sale of his other movable property as hereinbefore provided, the Chairperson may, at any time after the tax has become due, seize and detain the vehicle or animal or both and, if the owner or other person entitled thereto does not within seven days in respect of a vehicle and two days in respect of an animal from the date of such seizure and detention, claim the same and pay the tax due together with the charges incurred in connection with the seizure and detention, the Chairperson may cause the same to be sold and apply the proceeds of the sale or such part thereof as is required in discharge of the sum due and the charges incurred as aforesaid.

(2) The surplus, if any, remaining after the application of the sale proceeds under sub-section (1) shall be disposed of in the manner laid down in sub-sections (6) and (7) of section 104.

108. Occupiers may be required to pay rent towards satisfaction of property tax.—(1) For the purposes of recovering the amount of any pro-

perty tax from any occupier under section 68, the Chairperson shall cause to be served on such occupier a notice requiring him to pay to the Council any rent due or falling due from him in respect of the land or building to the extent necessary to satisfy the portion of the sum due for which he is liable under the said sections.

(2) Such notice shall operate as an attachment of the said rent unless the portion of the sum due shall have been paid and satisfied and the occupier shall be entitled to credit in account with the person to whom such rent is due for any sum paid by him to the Council in pursuance of such notice :

Provided that if the person to whom such rent is due is not the person primarily liable for payment of the property tax he shall be entitled to recover from the person primarily liable for the payment of such tax any amount for which credit is claimed as aforesaid.

(3) If any occupier fails to pay to the Council any rent due or falling due which he has been required to pay in pursuance of a notice served upon him as aforesaid, the amount of such rent may be recovered from him by the Council as an arrear of tax under this Act.

Remission and refund

109. **Demolition etc. of buildings.**—If any building is wholly or partly demolished or destroyed or otherwise deprived of value, the Chairperson may, on the application in writing of the owner or occupier, remit or refund such portion of any tax assessed on the rateable value thereof as he thinks fit.

110. **Remission or refund of tax.**—(1) If any building together with land appurtenant thereto has remained vacant and unproductive of rent for sixty or more consecutive days, the Chairperson shall remit or refund, as the case may be, two-thirds of such portion of the property tax assessed on the rateable value thereof, as may be proportionate to the number of days during which the said building together with the land appurtenant thereto has remained vacant and unproductive of rent.

(2) If any land, not being land appurtenant to a building, has remained vacant and unproductive of rent for sixty or more consecutive days, the Chairperson shall remit or refund, as the case may be, one half of such portion of the property tax assessed on the rateable value thereof, as may be, proportionate to the number of days during which the said land has remained vacant and unproductive of rent.

111. **Power to require entry in assessment list of details of buildings.**—(1) For the purpose of obtaining a partial remission or refund of tax, the owner of a building composed of separate tenements may request the Chairperson at the time of the assessment of the building, to enter in the assessment list, in addition to the rateble value of the whole building, a note regarding any detail of the rateable value of each separate tenement

(2) When any tenement, the rateable value of which has been thus separately recorded has remained vacant and unproductive of rent for sixty or more consecutive days such portion of any tax assessed on the rateable value of the whole building shall be remitted or refunded as would have been remitted or refunded if the tenement had been separately assessed.

112. **Notice to be given of the circumstances in which remission or refund is claimed.**—No remission or refund under section 110 or section 111 shall be made unless notice in writing of the fact that land/building or tenement

has become vacant and unproductive of rent has been given to the Chairperson, and no remission or refund shall take effect in respect of any period commencing more than fifteen days before delivery of such notice.

113. **What buildings are to be deemed vacant.**—(1) For the purpose of sections 110 and 111 no land, building or tenement shall be deemed vacant if maintained as a pleasure resort or town or country house or be deemed unproductive of rent if let to a tenant who has continuing right of occupation thereof, whether he is in actual occupation or not.

(2) The burden of proving the facts entitling any person to claim relief under sections 109, 110 or section 111, shall be upon him.

114. **Notice to be given of every occupation of vacant land or building.**—The owner of any land or tenement in respect of which a remission or refund of tax has been given under section 110 or section 111, shall give notice of the re-occupation of such land, building or tenement within fifteen days of such re-occupation.

Appeals

115. **Appeal against assessment etc.**—(1) Appeal against the levy or assessment of any tax under this Act shall lie to the court of the District Judges of Delhi.

(2) If, before or on the hearing of an appeal under this section, any question of law or usage having the force of law or contruction of a document arises, the Court of District Judge on his own motion may, or on the application of the party to the appeal, shall, draw up a statement of the facts of the case, and the question so arising, and refer the statement with his opinion on the question for the decision of the High Court.

(3) On a reference being made under sub-section (2), the subsequent proceedings in the case shall be, as nearly as may be in conformity with the rules relating to references to the High Court contained in Order XLVI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908).

(4) In every appeal, the costs shall be in the discretion of the Court.

(5) Costs awarded under this section to the Council shall be recoverable by the Council as an arrear of tax due from the appellant.

(6) If the Council fails to pay any costs awarded to an appellant within ten days after the date of the order for payment thereof, the Court may order the Chairperson to pay the amount to the appellant.

116. **Conditions of right to appeal.**—No appeal shall be heard or determined under section 115 unless –

(a) the appeal is, in the case of a property tax, brought within thirty days next after the date of authentication of the assessment list under section 70 (exclusive of the time requisite for obtaining a copy of the relevant entries therein) or, as the case may be, within thirty days of the date on which an amendment is finally made under section 72 and, in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days after the date of the presentation of the first bill, or, as the case may be, the first notice of demand in respect thereof;

(b) the amount, if any, in dispute in the appeal has been deposited by the appellant in the office of the Council.

117. **Condonation of delay in preferring the appeal.**—Notwithstanding anything contained in clause (a) of section 116, an appeal may be admitted

after the expiration of the period prescribed therefore by that section if the appellant satisfies the court that he had sufficient cause for not preferring the appeal within the period.

118. Finality of appellate orders.—The order of the Court confirming, setting aside or modifying an order in respect of any rateable value or assessment or liability to assessment or taxation shall be final :

Provided that it shall be lawful for the Court upon application or on its own motion, to review any order passed by it in appeal within three months from the date of the order.

Miscellaneous provisions relating to taxation

119. Power to inspect for purposes of determining rateable value or tax.—(1) The Chairperson may, without giving any previous notice, enter upon and make an inspection of—

(a) any land or building for the purpose of determining the rateable value of such land or building ;

(b) any stable, garage, or coach house or any place wherein he may have reason to believe that there is any vehicle or animal liable to a tax under this Act ;

(c) any place or premises which he has reason to believe are being used or are about to be used for any performance or show in respect of which the theatre tax is payable or would be payable ;

(d) any land, building or vehicle in or upon which any advertisement liable to tax under this Act is exhibited or displayed.

(2) The Chairperson may, by written summons, require the attendance before him of any person whom he has reason to believe to be liable to the payment of a tax in respect of a vehicle or animal, or of any servant of any such person and may examine such person or servant as to the number and description of vehicles and animals owned by or in the possession or under the control of such person ; and every person or servant of person so summoned shall be bound to attend before the Chairperson and to give information to the best of his knowledge and belief as to the said matter.

120. Composition.—(1) The Chairperson may with the previous sanction of Council allow any person to compound for any tax.

(2) Every sum due by reason of the composition of a tax under sub-section (1) shall be recovered as an arrear of tax under this Act.

121. Irrecoverable debts.—(1) The Chairperson may write off any sum due on account of any tax or of the costs of recovering any tax if such sum is, in his opinion irrecoverable :

Provided that where the sum written off in favour of any person exceeds one thousand rupees, the previous sanctions of the Council shall be first obtained.

(2) The Chairperson shall report to the Council every case in which any sum has been written off under sub-section (1).

122. Obligation to disclose liability.—(1) The Chairperson may, by written notice, call upon any inhabitant of New Delhi to furnish such information as may be necessary for the purpose of ascertaining –

(a) whether such inhabitant is liable to pay tax imposed by the Council under this Act ;

(b) at what amount he should be assessed ; or

(c) the rateable value of the land or building which he occupies and the name and address of the owner or lessee thereof.

(2) If any person when called upon under sub-section (1) to furnish information neglects to furnish it within the period specified in this behalf by the Chairpersons or furnishes information which is not true to the best of his knowledge or belief, he shall be liable in addition to any penalty which may be implied under this Act, to be assessed at such amount on account of tax as the Chairperson may deem proper, and the assessment so made shall, subject to the provisions of this Act, be final.

123. **Immaterial error not to affect liability.**—No assessment and no charge or demand on account of any tax shall be impeached or affected by reason only of any mistake in the name, residence, place of business or occupation of any person liable to pay the tax or in the description of any property or thing, or of any mistake in the amount of the assessment, charge or demand, or by reason only of clerical error or other defect of form, if the directions contained in this Act and the bye-laws made thereunder have in substance and effect been complied with and it shall be enough in the case of any such tax on property or any assessment of value for the purpose of any such tax, if the property taxed or assessed is so described as to be generally known ; and shall not be necessary to name the owner or occupier thereof.

124. **General power of exemption.**—The Council may, by resolution passed in this behalf, exempt either wholly or in part from the payment of any tax levied under this Act, any class of persons or any class of property or goods.

Taxes on entertainment and bettings

125. **Payment of proceeds of entertainment and betting taxes to Council.**—The proceeds of the entertainment and betting taxes collected in New Delhi under the provisions of the U.P. Entertainment and Betting Tax Act, 1937 (U.P. Act 18 of 1937) as extended to the National Capital Territory of Delhi (which shall form part of the Consolidated Fund of the National Capital Territory of Delhi) reduced by the cost of collection as determined by the Government shall, if the Legislative Assembly of the National Capital Territory of Delhi by appropriation made by law in this behalf so provides, be paid to the Council for the performance of its functions under this Act.

CHAPTER IX
Borrowings

126. **Power of Council to borrow.**—(1) The Council may, in pursuance of any resolution passed by it, borrow by way of debenture or otherwise on the security of all or any of the taxes, fees and charges authorised by or under this Act, any sums of money which may be required—

(a) for acquiring any land which it has power to acquire ;

(b) for erecting any building which it has power to erect ;

(c) for the execution of any permanent work, the provision of any plant, or the doing of any other thing which it has power to execute, provide or do, if the cost of carrying out the purpose in question ought to be spread over a term of years ;

(d) to pay off any debt due to the Central Government or the Government ;

(e) to repay a loan previously raised under this Act or any other Act previously in force ; or

(f) for any other purpose for which the Council is, by virtue of this Act or any other law for the time being in force, authorised to borrow :

Provided that—

(i) no loan shall be raised without the previous sanction of the Central Government or without previous publication of the application for sanction under the Local Authorities Loans Act, 1914 (9 of 1914), and the rules made thereunder ; and

(ii) the amount of loan, the rate of interest and the terms including the date of floatation, the time and method of the repayment and the like shall be subject to the approval of the Central Government.

(2) When any sum of money has been borrowed under sub-section (1), no portion of any sum of money borrowed for any of the purposes referred to in clause (c) of sub-section (1) shall be applied to the payment of salaries and allowances to any officers or other employees other than those exclusively employed in connection with the carrying out of that purpose.

127. Time for repayment of money borrowed under section 126.—The time for repayment of any money borrowed under section 126 shall in no case exceed sixty years and the time for repayment of any money borrowed for the purpose of discharging any previous loan shall not, except with the express sanction of Central Government, extend beyond the unexpired portion of the period for which such previous loan was sanctioned.

128. Form and effect of debenture.—All debentures issued under this Chapter shall be in such form as the Council may, with the previous sanction of the Central Government, determine and shall be transferable in such manner as shall be therein expressed ; and the right to sue in respect of the moneys secured by any of such debentures shall vest in the holders thereof for the time being without any preference by reason of some such debentures being prior in date to others.

129. Payment to survivors of joint payees.—When any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, then, notwithstanding anything in section 45 of the Indian Contract Act, 1972, the debenture or security shall be payable to the survivor or survivors of such person :—

Provided that nothing in this section shall affect any claim by legal representative of a deceased person against such survivor or survivors.

130. Receipt by joint holders for interest or dividend.—When two or more persons are joint holders of any debenture or security issued under this Act, any one of such persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Council by the other of such persons.

131. Maintenance and investment of sinking funds.—(1) The Council shall maintain sinking funds for the repayment of money borrowed on debentures issued and shall pay every year into such sinking funds such sum as will be sufficient for the repayment within the period fixed for the loan of all moneys borrowed on the debetures issued.

(2) All moneys paid into the sinking funds shall, as soon as possible,

be invested by the Chairperson in public securities and every such investment shall be reported by the Chairperson to the Council within fifteen days.

(3) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the sinking funds and invested in the manner laid down in sub-section (2).

(4) When any part of a sinking fund is invested in New Delhi municipal debentures, or is applied in paying off any part of a loan before the period fixed for repayment, the interest which would otherwise have been payable on such debentures or on such part of the loan shall be paid into the sinking fund and invested in the manner laid down in sub-section (1).

(5) Any investment made under this section may, subject to the provisions of sub-section (2), be varied or transposed.

132. Application of sinking funds.—A sinking fund or any part thereof shall be applied in or towards the discharge of the loan or a part of the loan for which such fund was created, and until such loan or part is wholly discharged shall not be applied for any other purpose :

Provided that when any loan or part thereof has been consolidated under section 134, the Chairperson shall transfer to the sinking fund of the consolidated loan such part of the sinking funds of the original loans as may be proportionate to the amount of the original loans incorporated in the consolidated loan.

133. Annual statement by Chairperson.—(1) The Chairperson shall, at the end of every year, submit to the Council a statement showing—

(a) the amount which has been invested during the year under section 131 ;

(b) the date of the last investment made previous to the submission of the statement ;

(c) the aggregate amount of the securities then in his hand ; and

(d) the aggregate amount which has up to the date of the statement been applied under section 132, in or towards discharging loans.

(2) Every such statement shall be published in the Official Gazette.

134. Power of Council to consolidate loans.—(1) Notwithstanding anything to the contrary contained in this Chapter, the Council may consolidate all or any of its loans and for that purpose may invite tenders for a new loan (to be called "the New Delhi Municipal Council Consolidated Loan,12—") and invite holder of the municipal debentures to exchange their debentures for scrips of such loans.

(2) The terms of any such consolidated loan and the form of its scrip and the rates at which exchange into such consolidated loan shall be permitted shall be subject to the prior approval of the Central Government.

(3) The period for the exchanging of any such consolidated loan shall not, without the sanction of the Central Government, extend beyond the farthest date with in which any of the loans to be consolidated would otherwise be repayable.

(4) The Council shall provide for the payment of any such consolidated loan by a sinking fund in the manner laid down in section 131 having regard to the amount transferred to such sinking fund under section 132.

135. Priority of payment for interest and repayment of loans over other payments.—(1) All payments due from the Council for interest on and repayment of loans shall be made in priority to all other payments due from the Council.

(2) If any money borrowed or deemed to have been borrowed by the Council from Central Government or the Government or any interest or costs due in respect thereof be not repaid according to the conditions of the loan, the Central Government or the Government may attach the New Delhi Municipal Fund or any part thereof.

(3) After such attachment no person except an officer appointed in this behalf by the Central Government shall in any way deal with the attached fund; but such officer may do all acts in respect thereof which any municipal authority, officer or other employee might have done if such attachment has not taken place, and may apply the proceeds in satisfaction of the arrears and of all interests and cost due in respect thereof and of all expenses caused by the attachment and subsequent proceedings :

Provided that no such attachment shall defeat or prejudice any debt for which the fund was previously charged in accordance with law ; and all such prior charges shall be paid out of the proceeds of the fund before any part of the proceeds is applied to satisfaction of the debt due to the Central Government or the Government.

136. Power to make regulations.—The Council may make regulations to carry out the purposes of this Chapter including, in particular, the issue of duplicates in case of loss of debentures by theft, destruction or otherwise, and renewal of debentures on payment of fees prescribed in this behalf by such regulations.

CHAPTER X

Property and Contracts

Property

137. Acquisition of property.—The Council shall, for the purpose of this Act, have power to acquire and hold movable and immovable property, or any interest therein.

138. Acquisition of immovable property by agreement.—Whenever the Council decides to acquire any immovable property for the purpose of this Act, the Chairperson shall acquire such property on behalf of the Council by agreement on such terms and at such price as may be approved by the Council.

139 Procedure when immovable property cannot be acquired by agreement.—Whenever the Chairperson is unable to acquire any immovable property under section 138 by agreement, the Central Government may at the request of the Chairperson procure the acquisition thereof under the provisions of the Land Acquisition Act, 1894 (1 of 1894), and on payment by the Council of the compensation awarded under that Act and of the charges incurred by that Government in connection with the proceedings, the land shall vest in the Council.

140. Disposal of movable property.—(1) With respect to the disposal of movable property belonging to Council the Chairperson may, in his discretion, dispose of by sale or otherwise, any movable property belonging to the Council not exceeding in value in each instance one thousand rupees, or such higher amount as the Council may prescribe, or let out on hire any

movable property or grant a lease of any immovable property belonging to the Council including any right of gathering and taking fruits and the like, for a period not exceeding one year at a time.

(2) In cases not covered by sub-section (1), the Chairperson may, with the sanction of the Council, lease, sell, let out on hire or otherwise transfer any movable property belonging to the Council.

141. Disposal of immovable property.—(1) The Chairperson may, with the sanction of the Council, lease, sell, let out on hire or otherwise transfer any immovable property belonging to the Council.

(2) The consideration for which any immovable property may be sold, leased or otherwise transferred shall not be less than the value at which such immovable property could be sold, leased or otherwise transferred in normal and fair competition.

(3) The sanction of Council under section 140 or this section may be given either generally for any class of cases or specially for any particular case.

(4) Subject to any conditions or limitation that may be specified in any other provisions of this Act the foregoing provisions of section 140 and this section shall apply to every disposal of property belonging to the Council made under, or for any purposes of this Act.

(5) Every case of disposal of property under sub-section (1) of section 140 shall be reported by the Chairperson without delay to the Council.

Contracts

142. Contracts by the Council.—Subject to the provisions of sections 143 and 144 the Council shall be competent to enter into and perform any contract necessary for the purposes of this Act.

143. Procedure for making contracts.—With respect to the making of contracts, the following provisions shall have effect, namely :—

(a) every such contract shall be made on behalf of the Council by the Chairperson ;

(b) no such contract, for any purpose which in accordance with any provision of this Act the Chairperson may not carry out without the approval or sanction of the Council shall be made by him until and unless such approval or sanction has been duly obtained ;

(c) do contract which will involve an expenditure exceeding ten lakh rupees or such higher amount as the Central Government may from time to time, fix, shall be made by the Chairperson unless the same is previously approved by the Council ; and

(d) every contract made, by the Chairperson involving an expenditure exceeding one lakh rupees but not exceeding ten lakh rupees or such higher amount as may be fixed under clause (c) shall be reported by him, within one month after the same has been made to the Council.

144. Mode of executing contracts.—(1) The mode of executing contract under this Act shall be prescribed by bye-laws made in this behalf.

(2) No contract which is not made in accordance with the provisions of this Act and the bye-laws made thereunder shall be binding on the Council.

CHAPTER XI

Water supply, Drainage and Sewage Collection

General

145. Definitions.—In this Chapter, unless the context otherwise requires, the following words and expressions in relation to water supply shall have the respective meanings given below, namely :—

(1) "communication pipe" means,—

(a) where the premises supplied with water abut on the part of the street in which the main is laid, and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the street and has a stopcock placed in those premises and as near to the boundary of that street as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock ;

(b) in any other case, so much of the service pipe as lies between the main and the boundary of the street in which the main is laid, and includes the ferrule at the junction of the service pipe with the main, and also –

(i) where the communication pipe ends at a stopcock, that stopcock ; and

(ii) any stopcock fitted on the communication pipe between the end thereof and the main ;

(2) "main" means a pipe laid down by the Council for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus used in connection with such a pipe ;

(3) "service pipe" means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap ;

(4) "supply pipe" means so much of any service pipe as is not a communication pipe ;

(5) "trunk main" means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir, or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits, or for the purpose of giving or taking a supply of water in bulk ;

(6) "water fittings" includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths and other similar apparatus used in connection with the supply and use of water.

146. Council may carry out surveys and formulate proposals.—(1) The Council may—

(a) carry out a survey of the existing consumption of and demand for water supplies in New Delhi and of the water resources in or likely to be made available in New Delhi ;

(b) prepare an estimate of the future water supply requirements of New Delhi ;

(c) carry out a survey of the existing quantity of sewage collection ;

(d) formulate proposals as to—

(i) the existing or future water supply requirements of New Delhi ;

(ii) the existing or future sewage collection requirement in New Delhi including proposals for the manner in which and the place or places at which sewage should be carried and collected.

(2) If the Council is of the opinion that the works and other properties for the time being vested in the Council, are inadequate for the purpose

of sufficient supply of water or for the purpose of efficient collection of sewage under this Act it may take step in accordance with the provisions of this Act for the construction of additional works, whether within New Delhi or outside New Delhi with the approval of the Administrator and for the acquisition of additional properties for such works.

Water supply

147. Functions in relation to water supplies.—(1) It shall be the duty of the Council to take steps from time to time—

(a) for ascertaining the sufficiency and wholesomeness of water supplies within New Delhi and receiving bulk supplies of water from the authority prescribed by the Central Government ;

(b) for providing a supply of wholesome water in pipes to every part of New Delhi in which there are houses, for the domestic purposes of the occupants thereof, and for taking the pipes affording that supply to such point or points as will enable the houses to be connected thereto at a reasonable cost, so, however, that this clause shall not require the Council to do anything which is not practicable at a reasonable cost or to provide such a supply to any part of New Delhi where such a supply is already available at such point or points aforesaid ;

(c) for providing as far as possible, a supply of wholesome water otherwise than in pipes to every part of New Delhi in which there are houses, for the domestic purposes of the occupants thereof and to which it is not practicable to provide a supply in pipes at a reasonable cost, and in which danger to health arises from the insufficiency or unwholesomeness of the existing supply and a public supply is required and can be provided within a reasonable distance of every house in that part.

(2) If any question arises under clause (b) of sub-section (1) as to whether anything is or is not practicable at a reasonable cost or as to the point or points to which pipes must be taken in order to enable houses to be connected to them at a reasonable cost, or under clause (c) thereof, as to whether a public supply can be provided a reasonable cost, the Council shall determine that question and thereupon it shall give effect to that determination.

(3) Without prejudice to the provisions of sub-section (1), the Chairperson shall, for the purpose of securing, so far as is reasonably practicable, that every house has available a sufficient supply of wholesome water for domestic purposes, exercise his powers under this Act of requiring the owners of houses to provide a supply of water thereto.

(4) The Council shall secure that the water in any water works belonging to the Council from which the water is supplied for domestic purpose is wholesome.

148. Water supplied for domestic purposes not to be used for non-domestic purposes.—No person shall, without the written permission of the Chairperson, use or allow to be used for other than domestic purposes water supplied for domestic purposes.

149. Supply of water for domestic purposes not to include any supply for certain specified purposes.—The supply of water for domestic purposes under this Act shall not be deemed to include any supply—

(a) for animals or for washing vehicles where such animals or vehicles are kept for sale or hire ;

(b) for any trade, manufacture or business ;

(c) for fountains, swimming baths or any ornamental or mechanical purpose ;

(d) for gardens or for purposes of irrigation ;

(e) for making or for watering streets ; or

(f) for building purposes.

150. Power to supply water for non-domestic purposes.— (1) The Chairperson may supply water for any purpose other than a domestic purpose on such terms and conditions consistent with this Act and the bye laws made thereunder as may be laid down in this behalf by the Council on receiving a written application specifying the purposes for which the supply is required and the quantity likely to be consumed,

(2) When a application under sub-section (1) is received, the Chairperson may subject to such charges and rates as may be fixed by the Council place or allow to be placed the necessary pipes and water fittings of such dimensions and character as may be prescribed by bye-laws and may arrange for the supply of water through such pipes and fittings.

151. Use of water for extinguishing fire.—Water may be used for extinguishing fire.

152. Power to require water supply to be taken.—(1) If it appears to the Chairperson that any premises in New Delhi are without supply of wholesome water for domestic purposes or that the existing supply of water for domestic purposes available for the persons usually occupying or employed in such premises is inadequate or on any sanitary grounds objectionable, the Chairperson may by notice in writing require the owner of the premises or the persons primarily liable for the payment of the property tax in respect of the same—

(a) to take a connection from the municipal water works adequate for the requirements of the persons occupying or employed in the premises, or to take such additional or enlarged connection or connections from the municipal water works ; and

(b) to provide, supply pipes and water fittings, install and work a pump and do all such works and take all such measures as may, in the opinion of the Chairperson be necessary for the above purposes.

(2) The Chairperson may in the notice issued under sub-section (1) specify—

(a) The size, material and quality of the pipes and water fittings to be provided ;

(b) the position of the pipes and water fittings to be provided ;

(c) the means of access for the inspection of the pipes and water fittings ;

(d) the type of pump that should be installed and the period or periods of the day for which it should be kept working ;

(e) the period within which any or all the requisitions specified in the notice should be carried out.

153. New premises not to be occupied without arrangement for water supply.— It shall not be lawful for the owner of any premises which may be newly constructed or reconstructed within any portion of New Delhi to occupy it or cause or permit it to be occupied until he has obtained a certi-

ficate from the Chairperson that there is provided within, or within a reasonable distance of, the premises such supply of wholesome water as appears to the Chairperson to be adequate for the persons who may occupy, or be employed in, such premises for their domestic purposes.

154. Public gratuitous water supply.—(1) The Chairperson with the approval of the Council may provide gratuitous supply of wholesome water to the public within New Delhi and may, for that purpose, erect public hydrants or other conveniences.

(2) The Chairperson may with like approval close a public hydrant or other convenience when it is no longer required for the supply of wholesome water to the public.

155. Power to lay mains.—(1) The Chairperson may lay a main whether within or without the local limits of the Council—

(a) in any street ; and

(b) with the consent of every owner and occupier of any land not forming part of a street, in, over or on that land,

and may, from time to time, inspect, repair, alter or renew or may at any time remove any main so laid whether by virtue of this section or otherwise :

Provided that where a consent required for the purpose of this sub-section is withheld, the Chairperson may, after giving the owner or occupier of the land a written notice of his intention so to do, lay the main in, over or on that land even without such consent.

(2) Where the Chairperson, in exercise of the powers under this section, lays a main in, over or any land not forming part of a street, or inspects, repairs, alters, renews or removes a main so laid down in, over or on any such land, he hall pay compensation to every person interested in that land for any damage done to, or injurious affection of that land by reason of the inspection, laying, repair, alteration, renewal or removal of the main.

156. Power to lay service pipes, etc. —(1) The Chairperson may, in any street whether within or without the local limits of the Council lay such service pipes with such stopcocks and other water fittings as he may deem necessary for supplying water to premises and may, from time to time, inspect, repair, alter or renew and may, at any time, remove any service pipe laid in a street whether by virtue of this section or otherwise.

(2) Where a service pipe has been lawfully laid in, over, or on the land not forming part of a street, the Chairperson may from time to time enter upon that land and inspect, repair, alter, renew or remove the pipe or lay a new pipe in substitution thereof but shall pay compensation for any damage done in the course of such action.

157. Provision of fire hydrants. —(1) the Chairperson shall fix hydrants on water mains (other than trunk mains) at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out and shall keep in good order and from time to time renew every such hydrant.

(2) To denote the situation of every hydrant placed under this section, letters, marks or figures shall be displayed prominently on some wall, building or other structure near such hydrant.

(3) As soon as any such hydrant is completed, the Chairperson shall

deposit a key thereof at each place where a public fire engine is kept and in such other places as he deems necessary.

(4) The Chairperson may, at the request and expense of the owner or occupier of any factory, workshop, trade premises or place of business situated in or near a street in which a pipe is laid (and not being a trunk main and being of sufficient dimensions to carry a hydrant), fix on the pipe and keep in good order and from time to time renew one or more fire hydrants, to be used only for extinguishing fires as near as conveniently may be to that factory, workshop, trade premises or place of business.

(5) The Chairperson shall allow all persons to take water for extinguishing fires from any pipe on which a hydrant is fixed without any payment.

158. Supply of water,—(1) The Chairperson may permit the owner, lessee or occupier of any premises to connect the premises by means of supply of pipes for conveying to the premises a supply of water for his domestic purposes from the municipal water works subject to the requirements specified in section 159 and the conditions, if any, laid down in the bye-laws made in this behalf.

(2) The owner of every premises connected with the municipal water works, shall, when so required by the Chairperson, set up electric pumps or other contrivances whereby water may be caused to reach to the top of the top-most story of such premises.

159. Laying of supply pipes, etc.—(1) An owner, lessor or occupier of any premises, who desires to have a supply of water for his domestic purposes from the municipal water works, shall comply with the following requirements, namely :—

(a) he shall give to the Chairperson fourteen days' notice of his intention to lay the necessary supply pipe ; and

(b) he shall lay the supply pipe at his own expense, having first obtained, as respects any land not forming part of a street, the consent of the owners or occupiers thereof :

Provided that where any part of the supply pipe is to be laid in a street, he shall not himself break open the street or lay that part of the pipe.

(2) Upon the receipt of such a notice as is referred to in sub-section (1), the Chairperson shall lay the necessary communication pipe and any part of the supply pipe which is to be laid in street shall connect the communication pipe with the supply pipe.

(3) The expenses, reasonably incurred by the Chairperson in executing the work which he is required or authorised by this section to execute, shall be repaid to him by the person to whom the notice was given and may be recoved from such person as an arrear of tax under this Act :

Provided that if under the provisions of this section, the Chairperson lays a main in lieu of a supply pipe, the additional cost incurred in laying the main instead of a supply pipe shall be borne by him.

(4) Notwithstanding anything contained in the foregoing provisions of this section, the Chairperson may, within a reasonable time after the service of the notice upon him, require the person giving the notice either to pay to him, in advance the cost of the work, as estimated by the Chairperson or any officer authorised by in this behalf or to give security for payment thereof to his satisfaction.

(b) to be or remain so constructed or adapted or to be so used.

that the water supplied to him by the Council is or likely to be wasted, misused or unduly consumed, or contaminated before use, or that foul air or any impure matter is likely to return into any pipe belonging to, or connected with, a pipe belonging to the Council.

(2) If any water fittings which any person is liable to maintain is in such a condition; or so constructed or adapted as aforesaid, the Chairperson, without prejudice to his right to proceed against the person under any other provision of this Act may require that person to carry out any necessary repairs or alterations and if he fails to do so within forty-eight hours, may himself carry out the work and recover from him the expenses reasonably incurred by him in so doing, as an arrear of tax.

165. Power to enter premises to detect waste or misuse of water.—The Chairperson or any Municipal officer authorised by the Chairperson in writing may, butween sunrise and sunset, enter any premises supplied with water by the Council in order to examine if there be any waste or misuse of such water and the Chairperson or such officer shall not be refused admittance to the premises nor shall be obstructed by any person in making his examination.

166. Power to test water fittings.—The Chairperson may test any water fitting in connection with water supplied by the Council.

167. Power to close or restrict use or restrict use of water from polluted source of supply.—(1) If the Chairperson is of opinion that the water in or obtained from any well, tank or other source of supply not vested in the Council, being water which is or is likely to be used for domestic purposes, or for the preparation of food or drink for human consumption, is or is likely to become so polluted as to be prejudicial to health, the Chairperson may, after giving the owner or occupier of the premises in which the source of supply is situated a reasonable opportunity of being heard, by order, direct that the source of supply be permanently or temporarily closed or cut off or the water therefrom be used for certain purposes only or make such order as appears to be necessary to prevent injury or danger to the health of persons using the water or consuming food or drink prepared therewith or therefrom.

(2) Before making any order under this section, the Chairperson may cause the water to be analysed at the cost of the Council.

(3) If the person to whom an order is made under this section fails to comply therewith, the Chairperson may do whatever may be necessary for giving effect to the order, and any expenses reasonably incurred by him in so doing may be recovered by him from the person in default as an arrear of tax under this Act.

168. Water pipes, etc. not to be placed where water will be polluted.—(1) No water pipes shall be laid in a drain or on the surface of an open channel or house gully or within six metres of a cesspool or in any position where the pipe is likely to be injured or the water therein pollutted ; and no well or tank and except with the consent of the Chairperson, no cistern shall be constructed within six metres of a latrine or cesspool.

(2) No latrine or cesspool shall be constructed or made within six metres of any well, tank, water pipe or cistern or in any position where the pipe, well, tank or cistern is likely to be injured or the water therein

(5) If any payment made to the Chairperson under sub-section (4) exceeds the expenses which the Chairperson would be entitled to recover from the person giving the notice, the excess shall be repaid by him and if and so far as those expenses are not covered by the payment, the Chairperson may recover the balance from such person as an arrear of tax under this Act.

160. Power to require separate service pipes.—(1) The Chairperson may require the provision of a separate service pipe for each of the premises supplied or to be supplied by him with water.

(2) If, in the case of any premises already supplied with water but not having a separate service pipe, the Chairperson gives notice to the owner of the premises requiring the provision of such a pipe, the owner shall, within three months, lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a street, and the Chairperson, shall, within fourteen days after the owner has done so, lay so much of the required pipe as will constitute a communication pipe or a supply pipe to be laid in a street and make all necessary communications.

(3) If an owner upon whom a notice has been served under sub-section (2) fails to comply therewith the Chairperson may himself execute the work which the owner was required to execute and recover the expenses reasonably incurred by him in executing the work as an arrear of tax under this Act.

161. Stopcocks.—(1) On every service pipe laid after the commencement of this Act the Chairperson, shall, and on every service pipe laid before commencement, Chairperson may, fit a stopcock enclosed in a cover box or a pit of such size as may be reasonably necessary.

(2) Every stopcocks fitted on a service pipe afer the commencement of this Act shall be placed in such position as the Chairperson deems most convenient :

Provided that—

(a) a stopcock in private premises shall be placed as near as is reasonably practicable to the street from which the service pipe enters those premises ; and

(b) a stopcock in a street shall be placed as near to the boundary thereof as is reasonably practicable.

162. Power of Chairperson to provide meters.—(1) The Chairperson may provide a water-meter and attach the same to the service pipe in premises connected with municipal water works.

(2) the expense of providing and attaching a meter under sub-section (1) shall be paid out of the New Delhi Municipal Fund.

(3) The use, rent to be paid for such use, maintenance and testing of meters shall be regulated by orders made by the Council in this behalf.

163. Presumption as to correctness of meters.—Whenever water is supplied under this Chapter through a meter it shall be presumed that the quantity indicated by the meter has been consumed until the contrary is proved.

164. Prohibition of waste and misuse of water.—(1) No person shall wilfully or negligently cause or suffer any water fitting which he is liable to maintain,—

(a) to be or remain so out of order or so in need of repair, or

polluted.

169. Power to cut off private water supply or to turn off water.—(1) The Chairperson may, subject to the conditions laid down in this behalf in the bye-laws, cut off or turn off water supply from any municipal water work to any premises or part thereof to which a private water supply is furnished by the Council.

(2) The expenses of cutting off or turning off water supply shall be paid by the owner or occupier of premises and shall be recoverable from the owner or occupier as an arrear or tax under this Act.

170. Joint and several liabilities of owners and occupiers for offences in relation to water supply.—If any offence relating to water supply is committed under this Act on any premises connected with the municipal water works, the owner, the person primarily liable for the payment of property tax and occupiers of the said premises shall be jointly and severally liable for such offence.

Drainage and sewerage

171. Public drains, etc. to vest in the Council.—(1) All public drains, all drains in, alongside or any public street, and all sewage collection works, whether constructed out of the New Delhi Municipal Fund or otherwise and all works, materials and things appertaining thereto, which are situated in New Delhi shall vest in the Council.

(2) All public and other drains which are vested in the Council are hereafter in this Act referred to as municipal drains.

(3) For the purposes of enlarging, deepening or otherwise repairing or maintaining any such drain or sewage collection work so much of the subsoil appertaining thereto as may be necessary for the said purpose shall be deemed all so to vest in the Council.

(4) All drains and ventilation shafts, pipes and all appliances and fittings connected with the drainage works constructed, erected or set up out of the New Delhi Municipal Fund in or upon premises not belonging to the Council whether—

(a) before or after the commencement of this Act, and

(b) for the use of the owner or occupier of such premises or not, shall, unless the Council has otherwise determined, or does at any time otherwise determine, vest and be deemed always to have vested in the Council.

172. Control of drains and sewage collection works.—(1) All municipal drains, all sewage collection and all works, materials and things appertaining thereto shall be under the control of the Chairperson.

(2) The Chairperson shall maintain and keep in repair all municipal drains and sewage collection works and when authorised by the Council, shall construct as many new drains and sewage collection works as may from time to time be necessary for effectual drainage and sewage collection.

173. Certain matters not to be passed into municipal drains.—(1) No person shall throw, empty, or turn into any municipal drain or into any drain communicating with a municipal drain—

(a) any matter likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents ; or

(b) any chemical, refuse or waste steam, or any liquid of a temperature higher than forty-five degrees centigrade, being refuse or steam which,

(f) Type of treatment proposed to be adopted (enclose details, design and schematic diagram)

(g) How do you propose to discharge the waste water (specify mode of disposal)

(h) What method do you propose to adopt for treatment, handling and disposal of sludge.

PART-V, Details of Air pollution :

S. No.	Stack attached to plant	Stack details Temp. (°c)	Dia, ht. (m) (m)	Volume (NM^3/hr)	Pollution concentration SPM Others (Mg/NM^3)
(i)					
(ii)					
(iii)					

Note :—Enclose lay out plan indicating location of each stack.

PART-VI, Sludge/Solid wastes/hazardous waste (process-wise) and their proposed treatment :

(a) Total quantity of wastes

(b) Nature of wastes

(c) Method proposed for treatment & disposal

PART-VII, Other types of pollution :

(a) Is your industry likely to cause noise pollution ? If so, what measures are proposed to be taken ?

(b) Is your industry likely to cause any other pollution ? If so, what measures are proposed to be taken ?

PART-VIII, Management of pollution control :

(a) Give details of the organisational set up proposed for pollution control and monitoring.

PART-IX, Cost of pollution control Measures :

(a) Total capital expenditure proposed for pollution control

(b) Annual recurring expenditure

(c) Has any financial outlay been proposed in the project report for pollution control measures/If so, mention the cost.

1. I/we declare that the information furnished above is correct to the best of my/our knowledge.

2. I/We undertake to furnish any other information within one month of its being called by the State Board.

I/We enclose herewith bank Draft No ..... dated for Rs ..... (Rs. in words .....) in favour of the Member Secretary, Rajasthan State Pollution Control Board payable under Section 21 of the Act.

Yours faithfully,
Signature .. ..
Name .....
Designation .....
Applicant

10. In the said rules after Form I, following new Form I-A, shall be

added, namely :—

FORM I-A

Application for consent to operate

(To be submitted in triplicate)

(See rule 4)

Application for consent to operate industrial plant or for causing emission or continue to cause emission under section 21 of the Air (Prevention and Control of Pollution) Act, 1981.

Dated :

From :

.....

.....

To :

.....

.....

Sir,

I/We hereby apply for Consent/renewal of Consent under Section 21 of the Air (Prevention and Control of Pollulion) Act, 1981 for operating industrial plant or to begin to make new discharge of emission/to continue to discharge emission from industrial plant owned by ..... The relevant details are as follows :—

PART 'A' GENERAL

1. Full Name of the owner/Occupier :

2. Name address, telephone numbers and fax of the applicant. The list of individuals, partners, Chairman (Full time or part time), Managing Director/Manager (Full time or part time) and other office bearers with their telephone nos. and addresses.

3. Name and Address of the Unit and its Location.

4. Category and scale of Industry.

(a) Red/Orange/Others.

(b) Large/Medium/Small.

5. Number of employees within factory premises and in the Colony.

6. Water Consumption (KLD).

(a) Boiler/Cooling/Industrial Spray/Mining

(b) Domestic

(c) Industrial process.

7. Raw material

Name	Quantity (TPD)
(a)	
(b)	
(c)	

8. Products and by-products

Name	Quantity (DPD)	
	Product	By-Product
(a)		
(b)		
(c)		

9. Installed capacity of the plant. (unit/annum)

10. Date of commissioning.

11. Storage capacity of raw materials/products/by-products

Items	Quantities (Tons/Cubic meter)
(a) Raw materials	
(b) Products	
(c) By-products	

12. Management plan.

(a) Maintenance schedule o control equipment or effluent treatment plant.

(b) Particulars of environmental Cell/Laboratory

13. Details of licence, if any, obtained under the provisions of the Industrial (Development and Regulations) Act, 1951.

PART 'B' PERTAINING TO AIR POLLUTION

14. Source of air pollution.

15. Fuel consumption

Name of Fuel	Quantity (TPD)
(a)	
(b)	
(c)	

16. Stack details

Stack No. Attached to plant	To be Monitored	Not to be monitored
(a)		
(c)		
(c)		

17. Details of those stacks which are required to be mentioned :—

Stack No.	Attached to plant	Ht. (m)	Dia(m)	Temp (C°)	Vol. (m/s
(a)					
(b)					
(c)					

18. Control equipments :

Stack No.	Type of control Equipment	Capital Cost (in Lacs)	Recurring Cost (Rs./Annum)
(a)			
(b)			
(c)			

19. Composition of gases

Stack No.	Observed Values (m/NM³)				Norms (mg/NM³)			
	SPM	SO_2	NOX	Other	SPM	SO_2	NOX	Other
(a)								
(b)								

(c)

Part-C, Pertaining to hazardous waste and hazardous chemicals :

20. (a) Total quantity of generation (kg/day) :
(a) Nature of hazardous waste as defined :
under the Environment (Protection) Act, 1986. [See the Hazardous Wastes (Management and Handling) Rules, 1989]
(c) Model of storage within the plant : method of disposal and any other information sought by the State Board
21. (a) Hazardous Chemicals as defined under : the Environment (Protection) Act, 1986 (See the Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989)
(b) Whether any isolated storage is involved, if yes, enclose details
(c) Whether emergency plans are prepared for taking
(i) On-site measures
(ii) Off-site measures

22. I/We declare that the information furnished above is correct to the best of my/our knowledge.

23. I/We hereby submit that in case of a change either of the point, or the quan ity of emission or of its quality, a fresh application for consent shall be made and until such consent is granted no change shall be made.

24. I/We hereby agree to submit to the State Board an application for renewal of consent one month in advance of the date of expiry of the consented period for stack emission, if to be continued thereafter.

25. I/We undertake to furnish any other information within one month of its being called by the State Board.

I/We enclose herewith Bank Draft No ..... dated . for Rs .. ..(Rs. in Words.....) in favour of the Member Secretary, Rajasthan State Pollution Control Board, payable under Section 21 of the Act.

Your's Faithfully
Signature
Name———
Designation———

Date.....

APPLICANT

11. In the said rules, after Form VIII, following new FORM IX shall be added, namely :—

FORM IX
(See rule 12-B)
Form of Notice

Form (1) By Registered A/D.

To

Notice under Section 43(1) (b) of the Air (Prevention & Control of Pollution) Act, 1981.

Whereas an offence under the Air (Prevention & Control of Pollution) Act, 1981 has been committed/is being committed by (2) .....

I/We hereby give notice of 60 days under Section 43 (1)(b) of the Air (Prevention & Control of Pollution) Act, 1981 of my/our intention to file a complaint in the court against (2) ..... for violation of Section (S) of the Air (Prevention & Control of Pollution) Act, 1981.

In support of my/our notice, I/We are enclosing the following document (3) as evidence of proof of violation of the Air (Prevention & Control of Pollution) Act, 1981.

.....

Signature (s)

Place :
Dated :

Explanations

(1) In case the notice is given in the name of company, documentary evidence authorising the person to sign the notice on behalf of the company shall be enclosed to this notice. Company for this purpose, means company defined in explanation to Section 40 of the Air (Prevention & Control of Pollution) Act, 1981.

(2) Here give the name and address of the alleged offender. In case of manufacturing processing/operating unit, indicate the name/location nature of activity etc.

(3) Documentary evidence shall include, photographs/technical reports/ health reports of the area etc. for enabling enquiry into the alleged violation offence.

12. In the said rules, following schedule shall be added ; namely :—

SCHEDULE

(See rule 5)

S.No.	Scale of industry	Capital investment	Consent Fee (in rupees) Fee to establish	Fee to operate
1.	Large	More than 5 crores	5,000	2,500
2.	Medium	65 lacs to 5 crores	2,000	1,000
3.	Small	Less than 65 lacs	500	250

THE RAJASTHAN TENANCY (AMENDMENT) ACT, 1992

The following Act of the Rajasthan State Legislature received the assent of the President on the 21st day of February, 1995 and was published in the Rajasthan Gazette, Extraordinary, Part 4 (Ka), dated March 2, 1995.

RAJASTHAN ACT NO. 1 OF 1995

An Act further to amend the Rajastan Tenancy Act, 1965.

Be it enacted by the Rajasthan State Legislature in the Forty-third Year of the Republic of India as follows :—

1. Short title and commencement.—(1) This Act may be called the **Rajasthan Tenancy (Amendment) Act, 1992.**

(2) It shall come into force at once.

2. Insertion of section 183-C Rajasthan Act No. 3 of 1965.—After section 183-B of the Rajasthan Tenancy Act, 1965 (Rajasthan Act No. 3 of 1965), the following new section shall be inserted, namely :—

"**183-C. Punishment for trespass in certain cases.**—Without prejudice to anything otherwise contained in section 183-B, a trespasser who,—

(a) takes possession, without lawful authority, of land held by a tenant belonging to a Scheduled Caste or a Scheduled Tribe ; or

(b) having taken such possession before coming into force of the Rajasthan Tenancy (Amendment) Act, 1992, fails to withdraw from such possession within fifteen days from the date of the service of a notice in writing calling upon him to do so, by the Tehsildar ;

shall, on conviction, be punished with simple imprisonment which shall not be less than one month but which may extend to three years and with fine which may extend to twenty thousand rupees :

Provided that where any person is prosecuted for such an offence, the burden of proving that he has not committed the offence shall lie on him.".

Published in the Rajasthan Gazette, Extraordinary, Part IV-Ga, dated 8th March, 1995.

DEPARTMENT OF ENVIRONMENT

G.S.R. 131.—*(Jaipur, 8th March, 1995).*—In exercise of the powers conferred by section 64 of the Water (Prevention and Control of Pollution) Act, 1974 (Central Act No. 6 of 1974), the State Government after consultation with the Rajasthan State Pollution Control Board, hereby makes the following Rules further to amend the Rajasthan Water (Prevention and Control of Pollution) Rules, 1975, namely :—

1. Short title and commencement.—(i) These Rules may be called **the Rajasthan Water (Prevention and Control of Pollution) Amendment Rules, 1995.**

(ii) They shall come into force from the date of their publication in the Official Gazette.

2. In clause (b) of Rule 2 of the Rajasthan Water (Prevention and Control of Pollution) Rules, 1975 hereinafter referred to as the "said rules", for the words "Rajasthan State Board for Prevention and Control of Water Pollution", occurring in the end, the words "Rajasthan State Pollution Control Board" shall be substituted.

3. In rule 5 of the said Rules,—

(i) In sub-rule (i), for the expression "Rs. 50/-", the expression "Rs. 100/-" shall be substituted and for the expression "Rs. 15/-", the expression "Rs. 30/-" shall be substituted.

(ii) In sub-rule (2), for the expression "Rs. 30/-", the expression "Rs. 60/-" shall be substituted and for the expression "Rs. 50/-", the expression "Rs. 100/-" shall be substituted.

(iii) In sub-rule (3), for the expression "Rs. 15/-", the expression "Rs. 30/-" shall be substituted.

4. In rule 6 of the said rules :

(i) For sub-rule (2), following sub-rule shall be substituted, namely :—

"(2) The Chairman may undertake tours within Rajasthan or outside Rajasthan within the territories of India for carrying out the functions of the Board,"

(ii) In sub-rule (3), the word "appointment" shall be inserted between the words "powers in matters of" and "promotion".

(iii) for sub-rule (4), following sub-rule shall be substituted, namely :—

"(4) The Chairman shall have full powers in the matters of acceptance of tendrs."

5. In rule 7 of the said rules, for the proviso to sub-rule (1), the following proviso shall be substituted, namely :—

"Provided that for creation of the posts above the rank of Environment Engineer or any other post equivalent thereto the Board shall obtain prior sanction of the State Government."

6. In the said rules, sub-rules (8) and sub-rule (10) of rule 8 shall be omitted.

7. In rule 17 of the said rules,—

(i) In sub-rule (1), for the words "in the month of October of each year for approval", the words and figures "before 31st December of each year for approval" shall be substituted.

(ii) For sub-rule (2), the following rule shall be substituted, namely :—

"(2) After approval of the budget estimates by the Board, four copies of the approved budget proposals with copies of schedules shall be furnished to the State Government forthwith."

8. For rule 21 of the said rules, the following shall be substituted, namely :—

"21. The fund of the Board shall be operated by the Member Secretary of the Board or by any other officer of the Board who may be so empowered, subject to such conditions as may be laid down, by the State Board."

9. In rule 22 of the said rules, for the words and figures "th 15th of May each year", the words and figures "the 30th of September each year shall be substituted.

10. In the said rules, after rule 25, the following new rule 25A shall be added, namely :—

"25A. **Qualification for Government or Board Analyst.**—A person shall not be qualified for appointment or recognised as a Government analyst or a Board Analyst, as the case may be, under sub-section (2) or sub-

section (3) of section 53 of the Act, unless he is a,—

(a) Graduate in science from a recognised University with five years experience in laboratory, engaged in environmental investigation, testing or analysis ; or

(b) Post Graduate in science or a graduate in engineering or a graduate in medicine or equivalent with two years experience in a laboratory, engaged in environmental investigation, testing or analysis ; or

(c) Post Graduate in environmental science from a recognised University with two years experience in a laboratory engaged in environmental investigation, testing or analysis.

11. In rule 27 of the said rules,—

(a) For the words "stream or well" wherever occurring, the words "stream or well or sewer on or land" shall be substituted.

(b) For the words "from any plant", the words "from any plant or outlet" shall be substituted.

12. For rule 29 of the said rules, the following shall be substituted, namely :—

"**29. Application of consent.**—(1) An application for obtaining the consent of the State Board—

(a) For establishing or taking any steps for establishing any industry, operation or process or any treatment and disposal system, or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land under section 25 of the Act or

(b) For bringing into use any new or altered outlet for the discharge of sewage or trade effluent into a stream or well or sewer or on land under section 25 of the Act or

(c) For making any new discharge of sewage or trade effluent into a stream or well or sewer or on land under section 25 of the Act or for continuing the existing discharge of sewarge or trade effluent into a stream or well or sewer or on land under section 26 of the Act shall be made to the State Board in Form No. XIII or Form No. XIII-A, as the case may be.

(2) Such application shall be accompanied by the fees as prescribed in Schedule IV.

(3) An application not accompanied with the prescribed fee shall not be entertained by the Board.

(4) The fee shall be paid through Bank Draft payable in favour of the Member Secretary, Rajasthan State Pollution Control Board, Jaipur.

13. In the said rules after rule 30, following new rules 30-A and 30-B shall be added, namely :—

30-A. Directions.

(1) Any direction issued under section 33-A shall be in writing.

(2) The direction shall specify the nature of action to be taken and the within which it shall be complied with by the person, officer or the authority to whom such direction is given.

(3) The person, officer or authority to whom any direction is sought to be issued, shall be granted an opportunity of being heard :

Provided that where the State Board is of the opinion that in view of of the likelihood of a grave injury to the environment, it is not expedient to provide an opportunity of being heard, it may for reasons to be recorded

namely :—

"(2A) No election to any Corporation shall be called in question except by an election petition presented to the Judge referred to in sub-section (1) and no Judge other than the Judge referred to in sub-section (1) shall entertain any dispute in respect of such election."

59. **Amendment of section 18 of Bom. LIX of 1949.**—In section 18 of the Provincial Corporations Act, for the word "Commissioner" the words "State Election Commissioner" shall be substituted.

60. **Amendment of section 19 of Bom. LIX of 1949.**—In section 19 of the Provincial Corporations Act,—

(a) in sub-section (1), after the words "Corporation shall" the words, brackets, figure and letter "subject to the provisions of sub-section (1A)" shall be inserted ;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) There shall be reservation for the office of the Mayor in the Corporation, by rotation, for the Scheduled Castes, the Scheduled Tribes, Women and the Backward Class of citizens, in the prescribed manner."

61. **Amendment of section 27 of Bom. LIX of 1949.**—In section 27 of the Provincial Corporations Act,—

(a) in sub-section (1), for the words "one of its number" the words "one of its members" shall be substituted ;

(b) in sub-section (4), for the words "one of its number" the words "one of its members" shall be substituted.

62. **Insertion of sub-heading and section 29A in Bom. LIX of 1949.**—After section 29 of the Provincial Corporations Act, the following sub-heading and section shall be inserted, namely :—

"Wards Committees

29A. **Constitution of Wards Committees.**—(1) In every City, there shall be constituted Wards Committees comprising such contiguous electoral wards as may be decided by the Corporation, in accordance with following table :—

Table

Population	Minimum Number of Wards Committees	Additional Wards Committees for Additional Population	Maximum Number of Wards Committees
Above 3 lakh and upto 4.5 lakh	3		4
Above 4.5 lakhs and upto 12 lakhs	4	1,50,000	9
Above 12 lakhs and upto 24 lakhs	9	3,00,000	13
Above 24 lakhs	13	6,00,000	28

(2) Each Wards Committee shall consist of—

(a) the councillors representing the electoral wards within the territorial area of the Wards Committee ;

(b) the officer incharge of the territorial area of the Wards Committee ;

(c) such number of other members not exceeding three, nominated by the Councillors referred to in clause (a), from amongst the members of recognised non-Government Organisations and Community based organisations engaged in social welfare activities working within the area of the Wards Committee :

Provided that such persons are registered as electors in the wards within the jurisdiction of the Wards Committee :

Provided further that the norms for recognition of the Non-Government Organisations, the requisite qualification for nomination as members and the manner in which they are to be nominated shall be such as the State Government may prescribe.

(3) The duration of the Wards Committees shall be co-terminus with the duration of the Corporation.

(4) The elected Councillors referred to in clause (a) of sub-section (2) shall at the first meeting of the Wards Committee in each official year, elect from amongst themselves the Chairperson who shall hold office until the first meeting in the next following official year.

(5) The Chairperson of the Wards Committee shall be deemed to have vacated the office as soon as he ceases to be a Councillor.

(6) In the event of the office of the Chairperson falling vacant before the expiry of its term, the Wards Committee shall elect a new Chairperson :

Provided that the Chairperson so elected shall hold office so long only as the Chairperson in whose place he is elected, would have held the office if such vacancy had not occurred.

(7) The functions of the Wards Committee shall, subject to the general supervision and control of the Corporation, be—

(a) the speedy redressal of common grievances of citizens, connected with local and essential municipal services like water-supply, drainage, sanitation, and storm water disposal ;

(b) to consider and make recommendations on the proposals regarding estimates of expenditure pertaining to the wards under different heads of account of the budget before being forwarded to the Commissioner ;

(c) to grant administrative approval and financial sanction to the plans for municipal works to be carried out within the territorial area of the Wards Committee costing upto rupees five lakhs, provided that specific provision exists therefor in the budget sanctioned by the Corporation.

(8) Notwithstanding anything contained in sub-section (7), the Corporation may, by resolution, delegate to a Wards Committee such other functions as it may deem fit and expedient.

(9) The Wards Committee shall meet at least once in every month at its Ward Office.".

63. **Amendment of Section 31 of Bom. LIX of 1949.**—In section 31 of the Provincial Corporations Act, to sub-section (1) the following proviso shall be added, namely :—

"Provided that such persons shall not be eligible to be elected as the Chairperson of such Committee and shall not have the right to vote at any meeting of the Committee.".

64. **Amendment of Section 43 of Bom. LIX of 1949.**—In section 43 of the Provincial Corporations Act,—

(a) in sub-section (1), after the words "Standing Committee" the words "the Wards Committees" shall be substituted ;

(b) to sub-section (1), the following proviso shall be added, namely :—

"Provided that the Councillors nominated under clause (b) of sub-section (2) of section (5) shall, notwithstanding anything contained in this Act including the Schedule, not have the right to vote at any meeting of the Corporation.".

65. Amendment of section 63 of Bom. LIX of 1949.—In section 63 of the Provincial Corporations Act, after clause (1), the following clauses shall be inserted, namely :—

"(1a) planning for social and economic development ;

(1b) urban forestry, protection of the environment and promotion of ecological aspects ;".

66. Amendment of section 66 of Bom. LIX of 1949.—In section 66 of the Provincial Corporations Act, after clause (1), the following clauses shall be inserted, namely :—

"(1A) slum improvement and upgradation ;

(1B) urban poverty alleviation ;

(1C) cattle ponds and prevention of cruelty to animals ;

(1D) regulation of tanneries ;".

67. Insertion of section 66A in Bom. LIX of 1949.—After section 66 of the Provincial Corporations Act, the following section shall be inserted, namely :—

"66A. Performance of functions by agencies.—When any duty has been imposed on, or any function has been assigned to, a Corporation under this Act or any other law for the time being in force, or a Corporation has been entrusted with the implementation of a scheme, by the State Government or any other authority :—

(i) the Corporation may, either discharge such duty or perform such function or implement such schemes by itself ; or

(ii) subject to such directions as may be issued and the terms and conditions as may be determined by the State Government cause it to be discharged, performed or implemented by any agency :

Provided that, the Corporation may also specify terms and conditions, not inconsistent with the terms and conditions determined by the State Government for such agency arrangement.".

68. Insertion of section 67A of Bom. LIX of 1949.—After section 67 of the Provincial Corporations Act, the following section shall be inserted, namely :—

"67A. Environment Status Report.—The Commissioner shall, before the thirty first day of July, every year, place before the Corporation a report of the last preceding official year covering such matters, and in such manner as may be specified by the State Government from time to time.".

69. Amendment of section 82A of Bom. LIX of 1949.—To section 82A of the Provincial Corporations Act, the following proviso shall be added, namely :—

"Provided that it shall be competent for the State Government to deduct :—

(a) from the grants made by the State Government, or

(b) from any sum representing grant-in-aid or the share of the Corporation in the net proceeds of the taxes, duties, tolls and fees levied by the State and distributed by the State Government on the recommendation of the Finance Commission,

any amount which is due to the State Government, or to any Government Corporation, a Government Company, or to any other statutory authority constituted by the Government of Maharashtra :

Provided further that before making such deductions, the Corporation's say in the matter shall be considered."

70. **Amendment of section 95 of Bom. LIX of 1949.**—In section 95 of the Provincial Corparations Act, before the Explanation, the following proviso shall be inserted, namely :—

"Provided that a separate estimate of the income and expenditure of the Coporation for the next official year in respect of services under Chapter XII and Chapter XIII shall be prepared.".

71. **Insertion of section 95A in Bom. LIX of 1949.**—After section 95 of the Provincial Corporations Act, the following section shall be inserted, namely :—

"95A. **Report on services provided in a subsidised manner.**—(1) Notwithstanding anything contained in this Chapter, the Commissioner or, as the case may be, the Transport Manager, shall, while submitting the budget estimates to the Standing Committee append thereto, a report indicating whether the following services were provided in the last preceding year in a subsidised manner and, if so, the extent of the subsidy, the source from which the subsidy was met and the sections or categories of the ideal population who were the beneficiaries of such subsidy, namely :—

(a) water-supply and disposal of sewage,
(b) scavenging, transport and disposal of wastes,
(c) municipal transport, and
(d) street lighting.

(2) The Standing Committee or, as the case may be, the Transport Committee shall examine the report and place it before the Corporation with its recommendations, if any.

Explanation.—A service shall be construed as being provided in a subsidised manner if its total cost, comprising the expenditure on operation and maintenance and adequate provision for depreciation of assets and for debt servicing, exceeds the income relatable to the rendering of that service.".

72. **Amendment of section 129 of Bom. LIX of 1949.**—In section 129 of the Provincial Corporations Act,—

(a) in clause (c), the words "on a graduated scale" shall be deleted ;
(b) after clause (c), the following proviso shall be added, namely :—

"Provided that all or any of the property taxes may be imposed on a graduated scale".

73. **Amendment of section 129A of Bom. LIX of 1949.**—In section 129A of the Provincial Corporations Act, in sub-section (1),—

(a) for the words "City is constituted", the words "larger urban area is specified" shall be substituted ;
(b) for the word "City", wherever it occurs, the words "larger urban area" shall be substituted.

74. **Amendment of section 452 of Bom. LIX of 1949.**—In section 452 of the Provincial Corporations Act,—

(a) in sub-section (1), for the words "direct that the Corporation shall, be superseded for a period to be specified in the order. Such period may be longer than the term for which the councillors of the Corporation would have held office under section 6, if the Corporation had not been superseded under this section.", the words "dissolve the Corporation with effect from the date to be specified in the order." shall be substituted ;

(b) in sub-section (2),—

"(i) for the words, brackets and figure "When an order is made under sub-section (1)", the following shall be substituted, namely :—

"With effect from the date specified in the order passed under sub-section (1) or with effect from the date on which the Corporation stands dissolved under the proviso to article 243-ZF" ;" ;

(ii) clauses (a) and (b) shall be deleted ;

(iii) for clause (c), the following clause shall be substituted, namely :—

"(c) all powers and duties of the Corporation, the Standing Committee, the Transport Committee and all other committees constituted under the Act, shall, during the period of dissolution be exercised and performed by such Government Officer or officers as the State Government may, from time to time, appoint in this behalf ;

(iv) for clause (d), the following clause shall be substituted, namely :—

"(d) on dissolution of the Corporation all the property vested in the Corporation shall vest in the State Government."

(v) after clause (e), the following clause shall be added, namely :—

"(f) the Government Officer or Officers appointed under clause (c) and the individual or the members of the committee or sub-committee referred to in clause (c) shall receive such remuneration from the Municipal Fund as the State Government may from time to time determine."

(c) sub-section (3) shall be deleted ;

(d) in sub-section (4), for the portion beginning with the words "re-established on" and ending with the words "the provisions of this Act", the words "re-constituted by election of councillors at general ward elections within the time specified for the purpose in clause (b) of section 6B" shall be substituted ;

(e) for the marginal note, the following marginal note shall be substituted, namely :—

"Power of State Government to dissolve Corporation."

75. **Insertion of section 452A in Bom. LIX of 1949.**—After section 452 of the Provincial Corporations Act, the following section shall be inserted, namely :—

"452A. **New larger urban area.**—(1) When any area is specified to be a larger urban area forming a City under this Act, the State Government may appoint a Government officer or officers to exercise all the powers and duties of a Corporation under this Act, for such larger urban area.

(2) Such officer or officers shall hold office until the first meeting of the urban area as the larger urban area, whichever is earlier.

(3) The officer or officers appointed under sub-section (2) shall receive from the Municipal Fund such pay and allowances as may be determined,

from time to time, by the State Government."

76. Insertion of section 456A in Bom. LIX of 1949.—After section 456 of the Provincial Corporations Act, the following section shall be inserted, namely :—

"456A. Special power of State Government to make rules.—(1) Notwithstanding anything contained in sections 454 and 45[c], the State Government may, by notification in the Official Gazette, make rules consistent with the provisions of this Act generally to carry out all or any of the purposes of this Act. Such rules may provide for charging of fees for any of the purposes of this Act.

(2) All rules made under this section shall be subject to the condition of previous publication.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule."

CHAPTER IV

Amendments to the City of Nagpur Corporation Act, 1948.

77. Amendment of section 1 of C. P. and Berar II of 1950.—In section 1 of the City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950) (hereinafter, in this Chapter, referred to as "the Nagpur Corporation Act"), in sub-section (2), for the words "City of Nagpur" the words "the larger urban area constituting the City of Nagpur" shall be substituted.

78. Amendment of section 3 of C.P. and Berar II of 1950.—In section 3 of the Nagpur Corporation Act,—

(1) in clause (1), for the words, figures and letter "section 22A or section 409 or any other provisions" the word and figures "section 409", shall be substituted ;

(2) after clause (3), the following clause shall be inserted, namely :—

"(3A) "Backward Class of citizens" means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes and Vimukta Jatis and Nomadic Tribes ;"

(3) for clause (10), the following clause shall be substituted, namely :-

"(10) "City of Nagpur" or "the City" means the larger urban area specified in the notification issued in this respect under clause (2) of article 243-Q of the Constitution of India, known by the name of the City of Nagpur ;"

(4) for clause (12), the following clause shall be substituted, namely :—

"(12) "the Corporation" means the Municipal Corporation of the City of Nagpur constituted or deemed to be constituted under this Act ;"

(5) for clause (13), the following clause shall be substituted, namely :-

"(13) "Councillor" means a person who is duly elected as a member of the Corporation under this Act ; and includes, a nominated Councillor who shall not have the right,—

(i) to vote at any meeting of the Corporation and Committees of the Corporation ; and

(ii) to get elected as a Mayor of the Corporation or a Chairperson of any of the Committees of the Corporation" ;

(6) after clause (21), the following clause shall be inserted, namely :—

"(21A) "Finance Commission" means the Finance Commission constituted in accordance with the provisions of article 243-I of the Constitution of India ;"

(7) after clause (37), the following clause shall be inserted, namely :—

"(37A) "population" means the population as ascertained at the last preceding Census of which the relevant figures have been published ;"

(8) after clause (47), the following clause shall be inserted, namely :—

"(47A) "State Election Commission" means the State Election Commission consisting of the State Election Commissioner appointed in accordance with the provisions of clause (1) of article 243-K of the Constitution of India ;" ;

(9) after clause (51), the following clause shall be inserted, namely :—

"(51A) "Wards Committees" means the Wards Committees constituted under section 38A ;".

79. Amendment of section 9 of C.P. and Berar II of 1950.—In section 9 of the Nagpur Corporation Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The Corporation shall consist of,—

(a) one hundred twenty-nine Councillors directly elected at ward elections ;

(b) five nominated Councillors, having special knowledge or experience in municipal administration, nominated by the Corporation in the prescribed manner." ;

(b) in sub-section (2),—

(i) for the words "State Government" the words "State Election Commissioner" shall be substituted ;

(ii) for the first proviso, the following proviso shall be substituted, namely :—

"Provided that, the provisions made under sub-section (1) or notification issued under sub-section (2) shall not have effect until the expiry of the duration of the existing term of the Corporation." ;

(iii) the second and third provisos shall be deleted ;

(c) sub-sections (3) and (4) shall be deleted.

80 Insertion of sections 9A and 9B in C.P. and Berar II of 1950.—After section 9 of the Nagpur Corporation Act, the following sections shall be inserted, namely :—

"**9A. Reservation of seats.**—(1) In the seats to be filled in by elections in the Corporation there shall be seats reserved for persons belonging to the Scheduled Castes, the Scheduled Tribes, Backward Class of citizens and women, as may be determined by the State Election Commissioner, in the prescribed manner.

(2) The seats to be reserved for the persons belonging to the Scheduled Castes and the Scheduled Tribes in the Corporation shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in the Corporation as the population of the Scheduled Castes, or, as the case may be, the Scheduled Tribes, in the Corporation area bears to the total population of that area and such seats shall be allotted by rotation to different wards in the Corporation :

Provided that, one-third of the total number of seats so reserved shall be reserved for women belonging to the Scheduled Castes, or as the case may be, the Scheduled Tribes :

Provided further that, where only one seat is reserved for the Scheduled Castes, or as the case may be, the Scheduled Tribes, then no seat shall be reserved for women belonging to the Scheduled Castes, or as the case may be, the Scheduled Tribes and where only two seats are reserved for the Scheduled Castes, or as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes, or as the case may be, the Scheduled Tribes.

(3) The seats to be reserved for persons belonging to the category of Backward Class of citizens shall be twenty seven per cent of the total number of seats to be filled in by election in the Corporation and such seats shall be allotted by rotation to different wards in the Corporation :

Provided that, one-third of the total number of seats so reserved shall be reserved for women belonging to the category of Backward Class of citizens.

(4) One-third (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes and the category of Backward Class of citizens) of the total number of seats to be filled in by direct election in the Corporation shall be reserved for women and such seats shall be allotted by rotation to different wards in the Corporation.

(5) The reservation of seats (other than the reservation for women) under sub-section (2) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India.]

9B. State Election Commissioner.—(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the Corporation shall vest in the State Election Commissioner.

(2) The State Election Commissioner may, by order delegate any of his powers and functions to any officer of the Commission or any officer of the State Government not below the rank of Deputy Collector or to any officer of the Corporation not below the rank of Assistant Commissioner.

(3) All the officers and members of the staff appointed or deployed for preparation of electoral rolls and conduct of election of the Corporation under this Act and the rules shall function under the superintendence, direction and control of the State Election Commissioner.

(4) Notwithstanding anything contained in this Act and the rules, the State Election Commissioner may issue such special or general orders or directions which may not be inconsistent with the provisions of the Act and the rules for fair and free elections.".

31. Amendment of section 12 of C.P. and Berar II of 1950.—In section 12 of the Nagpur Corporation Act,—

(1) In sub-section (1),—

(a) for the words "State Government" where they occur for the first time, the words "State Election Commissioner" shall be substituted ;

(b) for the words "the Commissioner or the such officer of the Corporation as may be authorised by him in this behalf" the words "the State Election Commissioner" shall be substituted ;

(c) for the words "the Commissioner or the authorised officer as the case may be," the words "the State Election Commissioner" shall be substituted ;

(d) for the words "in the opinion of the Commissioner" the words "in the opinion of the State Election Commissioner" shall be substituted ;

(e) for the words "an officer of the State Government as may be designated by the State Government in this behalf" the words "an officer of the State Government as may be designated by the State Election Commissioner in this behalf" shall be substituted ;

(2) in sub-section (2), for the words "the State Government" the words "the State Election Commissioner" shall be substituted ;

(3) in sub-section (5), for the words "the Collector or to an officer appointed by the Collector in this behalf" the words "the State Election Commissioner" shall be substituted ;

(4) in sub-section 6, for the words "the Commissioner" in both the places where they occur, the words "the State Election Commissioner" shall be substituted ;

(5) in sub-section (7), for the words "the Commissioner" the words "State Election Commissioner" shall be substituted ;

(6) in sub-section (8), for the word "Commissioner" where it occurs for the first time, the words "State Election Commissioner" shall be substituted ;

(7) in sub-section (9), for the words "the Commissioner", the words "the State Election Commissioner" shall be substituted.

82. Amendment of section 12A of C.P. & Berar II of 1950.—In section 12A of the Nagpur Corporation Act,—

(1) in sub-section (1), in clause (b), for the words "by the Collector", the words "by the State Election Commissioner" shall be substituted ;

(2) in sub section (3), for the words "to the Collector, or to an officer of the State Government appointed by the Collector in this behalf", the words "to the State Election Commissioner" shall be substituted.

83. Amendment of section 15 of C.P. and Berar II of 1950.—In section 15 of the Nagpur Corporation Act,—

(1) for clause (d), the following clause shall be substituted, namely :—

"(d) has been convicted by a court in India of any offence involving moral turpitude, unless a period of six years has elapsed since the date of such conviction ; or" ;

(2) for clause (g), the following clause shall be substituted, namely :—

"(g) has been so disqualified by or under any law,—

(i) for the time being in force for the purposes of elections to the Legislature of the State ;

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years ;

(ii) made by the Legislature of the State of Maharashtra." ;

(3) in clause (i), in the proviso, the brackets and letter "(g)" shall be deleted.

84. **Substitution of section 17 of C.P. and Berar II of 1950.**—For section 17 of the Nagpur Corporation Act, the following sections shall be substituted, namely :—

"17 **Duration of Corporation.**—(1) The Corporation shall, unless sooner dissolved, continue for a period of five years from the date appointed for its first meeting and no longer.

(2) A Corporation constituted upon the dissolution of the Corporation before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Corporation would have continued under sub-section (1), had it not been so dissolved.".

85. **Insertion of sections 17A and 17B in C.P. and Berar II of 1950.**—After section 17 of the Nagpur Corporation Act, the following sections shall be inserted, namely :—

"17A. **Term of office of Councillors.**—The term of office of the Councillors shall be co-terminus with the duration of the Corporation.

17B. **Election to constitute Corporation.**—An election to constitute the Corporation shall be completed,—

(a) before the expiry of its duration of five years as specified in section 17 ; or

(b) before the expiration of a period of six months from the date of its dissolution :

Provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election under this section for constituting the Corporation for such period.".

86. **Amendment of section 18 of C.P. and Berar II of 1950.**—In section 18 of the Nagpur Corporation Act,—

(a) in sub-section (1),—

(i) for the words "within two months", the words "as soon as conveniently may be but not latter than six months" shall be substituted ;

(b) sub-section (2A) shall be deleted.

87. **Substitution of section 20 of C.P. and Berar II of 1950.**—For section 20 of the Nagpur Corporation Act, the following section shall be substituted, namely :—

"20. **Election of Mayor and Deputy Mayor and reservation of Office of Mayor.**—(1) The elected Councillors of the Corporation shall, subject to the provisions of sub-section (2), at the first meeting of the Corporation each year, elect from amongst themselves, a Mayor and a Deputy Mayor.

(2) There shall be reservation for the office of the Mayor in the Corporation by rotation, for the Scheduled Castes, Scheduled Tribes, women and the Backward Class of citizens, in the prescribed manner."

88. **Deletion of section 22A of C.P. and Berar II of 1950.**—Section 22A of the Nagpur Corporation Act, shall be deleted.

89 **Insertion of sub heading and section 38A in C.P. and Berar II of 1950.**—After section 38 of the Nagpur Corporation Act, the following sub-heading and section shall be inserted, namely :—

"Wards Committees

38A. Constitution of Wards Committees.—(1) There shall be constituted not more than ten Wards committees for the City of Nagpur, each comprising such contiguous electoral wards as may be decided by the Corporation.

(2) Each Wards Committee shall consist of—

(a) the Councillors representing the electoral wards within the territorial area of the Wards Committee ;

(b) the officer-in-charge of the territorial area of the Wards Committee;

(c) such number of other members, not exceeding three, nominated by the Councillors referred to in clause (a), from amongst the members of reorganised non-Government Organisations and community based Organisations engaged in social welfare activities working within the area of the Wards Committee :

Provided that such persons are registered as electors in the Wards within the jurisdiction of the Wards Committee :

Provided further that, the norms for recognition of the non-Government Organisations, the requisite qualification for nomination as members and the manner in which they are to be nominated shall be such as the State Government may prescribe.

(3) The duration of the Wards Committee shall be co-terminus with the duration of the Corporation.

(4) The elected Councillors referred to in clause (a) of sub-section (2) shall at the first meeting of the Wards Committee in each official year, elect from amongst themselves the Chairperson who shall hold office until the first meeting in the next following official year.

(5) The Chairperson of the Wards Committee shall be deemed to have vacated the office as soon as he ceases to be a Councillor.

(6) In the event of the office of the Chairperson falling vacant before the expiry of its term, the Wards Committee shall elect a new Chairperson ;

Provided that the Chairperson so elected shall hold office so long only as the Chairperson in whose place he is elected would have held office if such vacancy had not occurred.

(7) The functions of the Wards Committee shall, subject to the general supervision and control of the Corporation be—

(a) the speedy redressal of common grievances of citizens connected with local and essential municipal services like water supply, drainage, sanitation and storm water disposal ;

(b) to consider and make recommendations on the proposals regarding estimates of expenditure pertaining to the wards under different heads of account of the budget before being forwarded to the Commissioner ;

(c) to grant administrative approval and financial sanction to the plans for municipal works to be carried out within the territorial area of the Wards Committee costing upto rupees five lakhs, provided that a specific provision exists therefor in the budget sanctioned by the Corporation

(8) Notwithstanding anything contained in sub-section (7), the Corporation may, by resolution, delegate to a Wards Committee such other powers, authority and functions as it may deem fit and expedient.

(9) The Wards Committee shall meet at least once in every month at its Ward Office, if any, or in the Corporation Office.".

90. **Amendment of section 41 of C.P. and Berar II of 1950.**—In section 41 of the Nagpur Corporation Act, after the existing proviso, the following proviso shall be added, namely :—

"Provided further that, the persons referred to in clause (b) of sub-section (1) of section 9 shall not have the right to vote at any meeting of Corporation.".

91. **Amendment of section 57 of C.P. and Berar II of 1950.**—In section 57 of the Nagpur Corporation Act, in sub-section (1), after clause (a) the following clauses shall be inserted, namely :—

"(aa) planning for economic and social development ;

(ab) urban forestry, protection of environment and promotion of ecological aspects ;".

92. **Amendment of section 58 of C.P. and Berar II of 1950.**—In section 58 of Nagpur Corporation Act, in sub-section (1), after clause (a) the following clauses shall be inserted, namely :—

"(aa) slum improvement and upgradation ;

(ab) urban poverty alleviation ;

(ac) cattle ponds and prevention of cruelty to animals ; and

(ad) regulation of tanneries ;".

93. **Insertion of section 58 B and 58C in C.P. and Berar II of 1950.**—After section 58A of the Nagpur Corporation Act, the following sections shall be inserted, namely :—

"58B. **Performance of functions by agencies.**—Where any duty has been imposed on, or any function has been assigned to the Corporation under this Act or any other law for the time being in force, or the Corporation has been entrusted with the implementation of a scheme,—

(i) the Corporation may, either discharge such duties or perform such functions or implement such schemes by itself ; or

(ii) subject to such directions as may be issued and the terms and conditions as may be determined by the State Government, cause them to be discharged, performed or implemented by any agency :

Provided that the Corporation may also specify terms and conditions, not inconsistent with the terms and conditions determined by the State Government for such agency arrangement.

58C. **Environment Status Report.**—The Commissioner shall before the 31st day of July every year place before the Corporation the report on the status of environment within the City of Nagpur in respect of the last preceding financial year covering such matters, and in such manner as may be specified by the State Government from time to time.".

94. **Amendment of section 78A of C.P. and Berar II of 1950.**—To section 78A of the Nagpur Corporation Act, the following proviso shall be added, namely :—

"Provided that, it shall be competent for the State Government to deduct—

(a) from the grants made under this section ; or

(b) from any sum representing the grant in-aid or the share of the Corporation in the net proceeds of the taxes, duties, tolls and fees levied by the State and distributed and allocated, as determined by the State Govern-

ment on the recommendations of the Finance Commission, any amount which is due to the State Government or to any Government Corporation, Government company or any other statutory authority constituted by the Government of Maharashtra :

Provided further that before making such deductions, the Corporation's say in the matter shall be considered by the Government.".

95 **Amendment of section 86 of C.P. and Berar II of 1950.**—In section 86 of the Nagpur Corporation Act, after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) The Commissioner shall, while preparing the statement referred to in clause (i) of sub-section (1) append thereto a report indicating whether the following services are being provided in a subsidised manner and, if so, the extent of the subsidy, the source from which the subsidy was met and the sections or categories of the local population who were the beneficiaries of such subsidy, namely :—

(a) water supply and disposal of sewage,

(b) scavenging, transporting and disposal of wastes, and

(c) street lighting.

Explanation.—A service shall be construed as being provided in a subsidised manner if its total cost, comprising the expenditure on operation and maintenance and adequate provision for depreciation of assets and for debt servicing, exceeds the income relatable to the rendering of that service ".

96. **Amendment of section 115A of C.P. and Berar II of 1950.**—In section 115A of the Nagpur Corporation Act, the following proviso shall be added, namely :—

"Provided that all or any of the property taxes may be imposed on a graduated scale."

97. **Deletion of section 272 of C.P. and Berar II of 1950.**—Section 272 of the Nagpur Corporation Act shall be deleted.

98. **Amendment of section 389 of C.P. and Berar II of 1950.**—In section 389 of the Nagpur Corporation Act in sub-section (1), after the words "Government may," the words "having regard to the factors mentioned in clause (2) of article 243-Q of the Constitution of India," shall be inserted.

99. **Amendment of section 391 of C.P. and Berar II of 1950.**—In section 391 of the Nagpur Corporation Act, to sub-section (1), the following proviso shall be added, namely :—

"Provided that before making the declaration the State Government shall be satisfied that the City of Nagpur after exclusion of such specified areas continues to fulfill the factors mentioned in clause (2) of article 243-Q of the Constitution of India."

100. **Amendment of section 408 of C.P. and Berar II of 1950.**—In section 408 of the Nagpur Corporation Act, in sub-section (1), for the portion beginning with the words "such an order" and ending with the words "be stated therein" the following portion shall be substituted, namely :—

"the Corporation should not be dissolved and after considering representation, if any, submitted by the Corporation within the time specified by the State Government, by an order published, with reasons therefor, in the Official Gazette, dissolve the Corporation.".

101. Amendment of section 409 of C.P. and Berar II of 1950.—In section 409 of the Nagpur Corporation Act,—

(a) in sub-section (1),—

(i) for the words and figures "Superseded under section 408" the words, figures and letters "dissolved under section 408 or under the proviso to article 243-ZF of the Constitution of India" shall be substituted ;

(ii) for the word "person" wherever it occurs, the words "Government Officer" shall be substituted ;" ;

(b) in the marginal note, for the word "supersession" the word "dissolution" shall be substituted.

102. Amendment of section 410 of C.P. and Berar II of 1950.—In section 410 of the Nagpur Corporation Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) when the Corporation is dissolved under section 408, general elections shall be held to constitute a Corporation on such date as may be specified by the State Election Commissioner :

Provided that an election to constitute the Corporation shall be completed before the expiration of a period of six months from the date of dissolution of the Corporation.".

(b) sub-section (2) shall be deleted.

103. Amendment of section 420 of C.P. and Berar II of 1950.—In section 420 of the Nagpur Corporation Act, to sub-section (1), the following proviso shall be added, namely ; —

"Provided that no rules in respect of any matter relating to the preparation of electoral rolls and conduct of elections shall be made without consultation with the State Election Commissioner :

Provided further such rules may provide for charging of fees for any of the purposes this Act.".

104. Amendment of section 428 of C.P. and Berar II of 1950.—In section 428 of the Nagpur Corporation Act, in sub-section (1), for the words "the Commissioner" the words "the State Election Commissioner" shall be substituted.

105. Deletion of Chapter XL of C.P. and Berar II of 1950.—Part XIII containing Chapter XL of the Nagpur Corporation Act shall be deleted.

CHAPTER V

Amendments to the Maharashtra Municipal Councils Act, 1965

106. Amendment of long title of Mah. XL of 1965.—In the Maharashtra Municipal Councils Act, 1965 (Mah. XL of 1965), (hereinafter, in this Chapter, referred to as "the Municipal Councils Act") in the long title, for the words "to municipalities in the State of Maharashtra" the following shall be substituted, namely :—

"to Municipal Councils and to provide for constitution of Nagar Panchayats and Industrial Townships in the State of Maharashtra.".

107. Amendment of section 1 of Mah. XL of 1965.—In section 1 of the Municipal Councils Act, in sub section (1), after the words "Municipal Councils" the words "Nagar Panchayats and Industrial Townships" shall be inserted.

108. Amendment of section 2 of Mah. XL of 1965.—In section 2 of the Municipal Councils Act,—

(1) after clause (1), the following clause shall be inserted, namely :—

"(1A) "Backward Class of Citizens" means such classes or part of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes and Vimukta Jatis and Nomadic Tribes ;" ;

(2) for clause (6), the following clause shall be substituted, namely :—

"(6) "Council" means municipal council constituted or deemed to have been constituted for a smaller urban area specified in a notification issued in this respect, under clause (2) of article 243-Q of the Constitution of India or under sub-section (2) of section 3 of this Act." ;

(3) for clause (7), the following shall be substituted, namely :—

"(7) "Councillor" means a person duly elected as a member of the Council, and includes the nominated Councillor, who shall not have the right,—

(i) to vote at any meeting of the Council and Committees of the Council ; and

(ii) to get elected as a President of the Council or a Chairperson of any of the Committees of the Council ;" ;

(4) after clause (14), the following clause shall be inserted, namely ; —

"(14A) "Finance Commission" means the Finance Commission constituted in accordance with the provisions of article 243-I of the Constitution of India ;";

(5) after clause (18), the following clause shall be inserted, namely :—

(18A) "Industrial Township" means such urban area or part thereof as the State Government may, having regard to the factors mentioned in the proviso to clause (1) of article 243-Q of the Constitution of India, by notification in the Official Gazette, specify to be an Industrial Township under section 341-F ;";

(6) for clause (24), the following clause shall be inserted, namely :—

"(24) "municipal area" means the territorial area of a Council or a Nagar Panchayat";

(7) after clause (25), the following clause shall be inserted, namely :—

"(25A) "Nagar Panchayat" means a Nagar Panchayat constituted for a transitional area notified under section 341A of this Act ;";

(8) in clause (33), the words "whether provisional or final", shall be deleted ;

(9) after clause (47), the following clauses shall be inserted, namely :—

"(47A) "a smaller urban area" or "a transitional area" shall mean an area specified as "a smaller urban area" or "a transitional area", as the case may be, by a notification issued under clause (2) of article 243-Q of the Constitution of India or under this Act ;

(47B "State Election Commission" means the State Election Commission consisting of the State Election Commissioner appointed in accordance with the provisions of clause (1) of article 243-K of the Constitution of India ;";

(10) in clause (49), for the words "and the co-opted and nominated Councillors, if any" the word "Councillors" shall be substituted ;

(11) after clause (50), the following clause shall be inserted, namely :—

"(50A) "Ward Committee" means the Wards Committee constituted

under section 66-A of this Act ;".

109. Amendment of section 8 of Mah. XL of 1965.—In section 8 of the Municipal Councils Act,—

(a) for sub-sections (1), (1A) and (2), the following sub-section shall be substituted, namely :—

"(1) A Council for every municipal area existing on the date of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994 (Mah. XLI of 1994) specified as a smaller urban area in a notification issued under clause (2) of article 243-Q of the Constitution of India in respect thereof, shall be deemed to be a duly constituted Municipal Council known by the name.....Municipal Council.

(2) Save as provided in sub-section (1), the State Government may, having regard to the factors mentioned in clause (2) of article 243-Q of the Constitution of India, specify, by notification in the Official Gazette, any local area as a smaller urban area ;

Provided that, no such area shall be so specified as a smaller urban area unless the State Government, after making such inquiry as it may deem fit, is satisfied that,—

(a) the population of such area is not less than 25,000 ; and

(b) the percentage of employment in non-agricultural activities in such area is not less than thirty-five per cent.

(2A) For every smaller urban area so specified by the State Government under sub-section (2), there shall be constituted a Municipal Council known by the name.....Municipal Council.";

(b) in sub-section (3), for the word, brackets and figure "sub-section (1)" the words, brackets and figure "sub-section (2)" shall be substituted ;

(c) for the marginal note, the following marginal note shall be substituted, namely :—

"Specification of areas as smaller urban areas.".

110. Amendment of section 4 of Mah. XL of 1965.—In section 4 of the Municipal Councils Act,—

"(1) Every smaller urban area shall be classified by the State Government as 'A' Class, 'B' Class or 'C' Class, on the basis of population thereof as specified below :—

A smaller urban area,—

(a) with a population of more than 1,00,000 shall be 'A' Class smaller urban area ;

(b) with a population of more than 40,000 but not more than 1,00,000 shall be 'B' Class smaller urban area ; and

(c) with a population of 40,000 or less, shall be 'C' Class smaller urban area.

(2) Notwithstanding anything contained in sub-section (1), for the purposes of this Act, the classification as shown in Schedule I to this Act of the Municipal areas or councils existing on the day of coming into force of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994 (Mah. XLI of 1994), specified as the smaller urban area in the notification issued under clause (2) of article 243-Q of the Constitution of India, shall not be affected, unless such classification is duly revised by the State Government under sub-section (5) ;";

Regt. No. ; Type SC/RLW ;
Period of Tax Payment ; From
Name and Address of
motor vehicle owner
or person concerned

M.V. Tax ; Addl. M.V. Tax ;
Fine on M.V. Tax ; Fine on Addl. M.V. Tax ;
TOTAL AMOUNT ;

Signature of Depositor ;
Teller/Head cashier Passing Official
Scroll cash Scroll transfer

TRIPLICATE

Cash/Transfer

Under Rs. ;
No.
Date ; Current Account Pay-in-Slip Paid into the credit of "0041-Vehicle Tax and Fees" Account with State Bank of India, Patna Secretariat Branch, Patna.

Regt. No. ; Type SC/RLW ;
Period of Tax Payment ; From
Name & Address of
motor vehicle owner
or person concerned

M.V. Tax ; Addl. M.V. Tax ;
Fine on M.V. Tax ; Fine on Addl. M.V. Tax ;
Total Amount ;

Signature of Depositor ;
Teller/Head Cashier
Scroll cash Passing Official
Scroll transfer

FORM OF DECLARATION
FORM BI
[See Rule 5 (2)]

Particulars of the Vehicles

1. Full name of the owner
2. Complete Address of the owner
3. Maker of the vehicle
4. Type of vehicle
   (a) Personalised vehicle
   (b) Motor car with seating capacity more than 5
   (c) Vehicles adapted and used for invalid
   (d) Vehicles used solely for the transport of goods
   (e) Vehicles used for conveyance of passengers
   (f) Vehicles used solely for haulage
   (g) Other vehicles.

5. Year of manufacture
6. Engine number
7. Chasis number
8. Seating capacity (in the case of vehicles which fall under item 4(a), (b) and (c).
9. Unladen weight
10. Unladen weight (in case of vehicles which fall under items 4 (d) and 4 (g)
11. Tax liabilities

(a) Period for which Tax being paid.
(b) Account of Tax (i) Motor Vehicle Tax
(ii) Additional Motor Vehicle Tax
(c) Penalty (if any).) (i) On Motor Vehicle Tax
(ii) On Addl. Motor Vehicle Tax
(d) Total of tax and penalty.

12. Details of Challan/Bank Draft/Postal order
No. Date Amount
13. For Transport Vehicles only
(a) Permit valid till (b) Certificate of fitness valid till
14. Whether expired Tax Token enclosed
15. If M.V. Tax/Additional M.V. Tax not payable

(a) Reason (b) Number and date of notification
(c) Period for which M.V. tax/additional M.V. tax not payable
16. Details of insurance
(a) Insurer (b) Insurance Certificate No. (c) Date of validity from to

I hereby affirm that the above information is true to the best of my knowledge and belief.

Signature of the owner
Date

FORM B-2

Form of Declaration to be filled by the Manufacturer or Dealer

(See Rule 5(4)

Filed before the Taxing Officer .....

1. Name of the Manufacturer/Dealer
2. Full Postal Address
3. No. of Trade Certificates granted :
4. Trade registration mark assigned :
5. Duration for which tax is being paid :
6. Amount of taxes
(i) Tax ...
(ii) Penalty ...
(iii) Total ...
7. Details of payment may (strike out whichever is not applicable)
Draft No. / Challan No. / Cash
Dated

I hereby affirm that the above information is true to the best of my knowledge.

Signature of the Certificate Holder
or his authorised agent

ACKNOWLEDGEMENT

Received Rs. in form of challan/bank draft/Cash dated as the tax payable by.....for the period from.....to.....

Taxing Officer.

FORM OF DECLARATION (FOR DIFFERENTIAL TAX)

FORM B-3

[See Rule 6 (3)]

I .....hereby declared that I have made on..... the following alterations in my motor vehicle with registered number..... Covered by the tax token No. (attached) which have caused the vehicle to became a vehicle in respect of which higher rate of M.V. Tax is payable.

(Description of alteration)

Signed
Date

FORM C

Receipt of the Payment

[See Rule 6 (1)]

Office copy

Received from Shri.....
for vehicle No.....
an amount of Rs.....Paise.....Through Challan/Bank Draft/ Cheque/Postal order bearing No..... and dated..... /cash/ Money order/Non-judicial stamp as/M.V. tax/Addl. M.V. tax/differential tax for the period.....to.....

Date
Place

Signature of Taxing Officer

FORM C

Receipt of tax Payment

[See Rule 6 (i)]

(Vehicle owner copy)

Received from Shri.....
for vehicle No .....
an amount of Rs..... .....Paise.....Through Challan/Bank Draft/ Cheque/Postal order bearing No .. ...and dated..... ...../cash/ Money order/Non judicial stamp as/M.V. Tax Addl. M V. Tax/differential tax for the period.....to.....

Date
Place

Signature of Taxing Officer

FORM D

One Time Tax Token for Personalised Vehicle

See Rule 6 (1)

1. Type of vehicle
2. Make
3. Model
4. Engine Number
5. Chassis Number
6. Registration Number
7. Registration Date
8. One time tax amount

Date :
Place :

Taxing Officer (Signature & Stamp)
District

FORM E
Tax Token
[See Rule 6 (1)]

TYPE OF VEHICLE SC/RLW
Engine No.....
Chassis No.....
Registration.....
Date of expiry.....
Date.....

Taxing Officer
District

FORM F
Exemption Token
[See Rule 6 (2)]

1. Make
2. Engine Number
3. Chassis Number
4. Registration number
5. Model
6. Date of Expiry
7. Seating capacity
8. Gross weight
9. H.P.

Place ;
Date

Taxing Officer
District

FORM G
Tax Card
[See Rule 6 (3)]

1. Serial No ..... District
2. Registration No.....
3. Registration Date.....
4. Type of Vehicle.....
5. Engine No.....
6. Chassis No.....
7. Model.....
8. Seating Capacity/RLW
9. Name and address of Owner of Vehicle
10. Quarter of Tax ;

(A)
(B)
(C)
(D)

Details of payment of tax

Date upto M.V. Tax and Additional M.V. Tax have been paid (Entries to be made for old vehicles)
Date

Taxing Officer
District

Period	Amount	Penalty	Date of Payment and Tax Token Number Taxing Officer District

FORM H

Application for obtaining No Objection Certificate

[See Rule 7 (1)]

To

The Taxing Officer District.

Sir,

I. son of resident of P.S. district owner of vehicle bearing registration number want to change my place of residence/place of business to district.

Because of this I want to pay the tax in future to the Taxing Officer of district. My present and future addresses are given below.

I may kindly be given 'No Objection Certificate' so that I may start paying tax at the new place of residence/business.

The above statement is true to the best of my knowledge and belief,

Signed

Dated

Present Address :
Name :
Father's Name
At (Exact place of residence)
P.O. & P.S.
District :
Permanent Address :
Name :
Father's Name
At (Exact place of residence)
P.O. & P.S.
District :

ACKNOWLEDGEMENT

Received an application from Shri———————for obtaining a No Objection Certificate in respect of vehicle bearing Registration Number

Dated :

Taxing Officer
District
(Signature & Stamp)

FORM I

No Objection Certificate

[See Rule 7 (2)]

Since the owner of the Motor Vehicle bearing Registration Number——— ———wants to change his place of business/residence to——————— in———————District, the undersigned has no objection if the above vehicle pays M.V. tax/Addl. M.V. taxes and such other taxes leviable from time to time in the district to which the owner wants to shift his place of business/residence.

There is no arrears outstanding against the above vehicle.

Date :

Taxing Officer
——————District

FORM J

Undertaking for vehicle's Temporary Discontinuance from use
(See Rule 13)

1. I .....S/o.....Resident of.....P.S...,
.....District..... .....hereby declare that I am the owner of Vehicle bearing Registration No.....

2. I, further declare that I am unable to use the above mentioned vehicle and have surrendered the permit to Regional Transport Authority... ..... ., /State Transport Authority on..... ...()/or the permit shall be surrendered by.....()

(Details regarding the reasons for temporary discontinuance from use to be mentioned hereunder)

.....
.....
.....
.....
.....

3. Above mentioned Vehicle has not been used since.....and it is expected that the vehicle shall make use of the road again after.....(days)

4. M.V. Tax/Addl. M.V. Tax in respect of this vehicle has been paid up till.....

5. Vehicle during the period of its non-use shall remain kept/is kept—
——————

(Detail regarding the Parking Place of the vehicle).

6. I hereby surrender the following papers of the vehicle
(a) Registration certificate
(b) Fitness certificate
(c) Insurance certificate

Certificate

I.....hereby declare that facts stated above and documents furnished are true to the best of my knowledge and belief. If any of the information is found false. I shall be liable for any legal action that may be taken against me.

Signature of the Owner
Date :

ACKNOWLEDGEMENT

Received an application along with following papers for temporary discontinuance of use from vehicle owner Shri.....for vehicle No.....

(If application is incomplete the Taxing Officer shall mention the documents which are wanting)

Application is not acceptable for following reasons :—

1.
2.
3.
4.

5.

Place:
Date :

Taxing Officer Signature
Seal

FORM K
Application for Claiming Refund
[See Rule 14]

I..... Son of.....resident of.....having duly paid the taxes of Rs.....(in words) and receipt granted therefor by the Taxing Officer..... .....bearing No..... .....date ....hereby request for a refund for Rs .....(in words.....) for the reasons given below.
Reasons and proof (if any) for claiming refund ;

I further certify that the information stated above and the document (if any) furnished are true to the best of my knowledge and belief.

Signature
Date

FORM L-1
(See Rule 5)
Order for the seizure of vehicle

I (Name and designation with address) ———————————— while checking the vehicle bearing registration No.————————————have the reason to believe that it has not paid taxes due for the period from———————to————————as per the provisions of Bihar Motor Vehicle Act, and has violated the provisions of section (s)———————— of Motor Vehicle Taxation Act/Rule (s)————————I therefore seize the aforesaid vehicle and direct that the vehicle be driven to————————by the driver Shri————————bearing driving licence No.

Vehicle shall be kept in safe custody till further order (s).

Place ;
Date :

Name and designation of officer seizing the vehicle

Officer Incharge————or the Incharge of the place where the vehicle may be kept————is hereby directed to keep the vehicle in safe custody till release order is passed by competent officer authorised under Motor Vehicle Taxation Rule (s).

Place :
Date :

(Signature)
Name and designation of the officer who seizes the vehicle
Dated————

Memo No.————

Copy to Regional Transport Officer————and District Transport Officer for information and necessary action.

Place ;

Date ;

Signature of officer who seized the vehicle with name and designation

FORM L-2

Release order for vehicle seized or detained under Motor Vehicles Taxation Act/Rule (s)

[See Rule 15 (5)]

1. Type and Registration Number of vehicle
2. Name and address of vehicle owner
3. Date of seizure and place where seized vehicle is kept
4. Release order and ground for release.

Place ;
Date ;

Signature of officer
(Name and designation)
Seal

Memo——— Dated———

Copy to Officer Incharge/Incharge of place/for information and is directed to release the vehicle to its owner Shri———on proper identification.

Place ;
Date ;

Signature of officer
(Name and Designation)
Seal

Memo——— Dated———

Copy to Regional Transport Officer/Taxtion office———for information and necessary action.

Place ;
Date ;

Signature of officer
(Name and designation)
Seal

FORM-N

Demand Register for Transport Vehicle

(See Rule 21 (2))

Registration No. Type Name of owner

Rate of Motor Vehicle Tax..... Quarterly rate of addl. M.V. Tax..... Per Quarter

Arrear	Liability for past six months	Total	Payment made during last six months	Balance due	Signature seal taxing officer
1	2	3	4	5	6

3. Applicant's principal and secondary profession :.....

4. Applicant's full address (including Phone No. if any)

(a) Permanent :.....

(b) Present address :.....

5. (a) Applicant's place(s) or location of business, with full address (including Phone No. if any) :.....

(b) Effective water area available for fish farm (in acres) :.....

(c) Distance of source from site i.e., from Canal/Khal/River/Sea :.....

(d) Type of culture :—(i) Monoculture :.....

(ii) Polyculture (mention species) :.....

(e) Prospective farming ; (Traditional / Semi-intensive/Intensive/Super-intensive) :.....

(f) Amount deposited in.....Treasury in Challan No. ..... and date.....

6. (a) Source(s) of seed supply (natural/hatchery) and means of transport) :.....

N.B. : Please name(s) with P.S. if his supply comes from within the State or within the District(s) ; if it comes from any outside State(s) that should be stated.

(b) Type of possession rights of the fishery (copy to be furnished) :.....

(c) Quality of water (Na, K, Ca, Cl, PH No^2, Fe So^4 Hardness) :—

(d) Distance of Marketing Place :—

(e) Pollution risk :—

7. (a) Experience of the applicant on this business :—

(b) Expected return on investment :—

8. (a) Did the applicant hold any fish producers' Licence previously ?

(b) If so, give the particulars including its suspension or cancellation if any :—

9. (a) Average quantity of fish produced annually during the last 3 years with average rate of production per acre :—

(b) Expected investment :—

(c) Expected production (in Kg.) :—

10. Particulars of the current trade licence held by the applicant :—

(Note : If no trade licence is hold by him, the reasons should be stated)

11. Actual lease rent to be paid for this fishery by the applicant :—

12. Income-tax paid for two years preceding the year of application (to be indicated separately) :—

13. (a) Does he have regular source of supply of fish to enable him to maintain a uniform flow of supplies to the consuming public throughout the year ?—

(b) If so, give the names and address of the market/locality :—

(Note : Separate blank sheets may be used when the space is insufficient here)

14. Name(s) of the authorised representive(s) who may be incharge of the business during the applicant's absence for any short or long duration from the place of his business :—

Declaration

I/We declare that the particulars and statements given above by me/us are to the best of my/our knowledge and belief true and correct.

I/We have carefully read the terms and conditions of the licence given in form 'B' in the Schedule to the West Bengal Fish Producers' Licensig Order, 1944 and I/We agree to abide by them.

I/We hereby apply for a licence under the West Bengal Fish Producers' Licencing Order, 1994.

I/We have not previously applied for a licence under the West Bengal Fish Dealers' Licencing Order, 1994 in respect of the business of the aforesaid place.

I/We applied for such licence on————————in respect of the business at————————and was/were granted/not granted a licence.

I/We declare that I am/we are the Proprietor(s)/Party(ies)/Manager/Secretary/Director(s) of————————the firm or organisation on behalf of which this application is made. (Note : The words/paras not applicable should be struck out).

Place :————— ————————————

Date :————— (Signature of the applicant)

FORM "B"

[vide Paragraph 3(1)]

Licence issued to a producer for Purchase/sale and for storage for sale of fish under the West Bengal Fish Producers' Licencing Order, 1994

No————— Dated—————

1. Subject to the provisions of the West Bengal Fish Producers' Order, 1994, Shri/Sarbshri————

*(Proprietor/Partner/Manager/Secretary/Director of firm/Organisation ————", son of————

of P.S.————, is are hereby authorised to produce, sell or store for sale fish.

*(Portion in the bracket to be filled in the case of Corporate body only.)

2. The licensee shall carry on the aforesaid business only at the following place ;————

3. (i) The licensee shall maintain separately for each place of business mentioned in clause 2 above, a Register showing correctly ;

(a) Opening Stock on each day ;

(b) The quantities produced/caught on each day showing the place(s) of fishery and the total value in respect of each species of fish ;

(c) The quantities sold or otherwise disposed of on each day and the sale price of each spices of fish by size ;

(d) Closing Stock of each day including variety.

(ii) The licensee shall complete his accounts for each day on the day to which they relate, unless prevensed by reasonable cause, the burden of proving which shall rest on him.

4. The licensee shall give all facilities at the place of business at all

reasonable time to the Licensing Authority or any officer authorised by him for inspection of his accounts, books, registers or any other documents about the transactions relating to his business.

5. The licensee shall comply with any directions that may be given to him by the State Government or any Officer duly authorised, in regard to production sale and storage for sale of fish and in regard to the language in which the returns, receipts, mentioned in clause 4 shall be written and the Registers mentioned in clause 3 shall be maintained and authenticated.

6. The licensee shall not fraudulently or wilfully fail, neglect or refuse to maintain regular supply of fish for sale or suspend his business. If this licence is suspended or cancelled it shall be delivered to the licensing authority within three days of the order of suspension or cancellation of the licence,

7. The licensee shall not offer for sale or store any fish which is rotten or decomposed or unfit for human consumption.

8. The licensee shall use the standard metric weights in transactions.

9. The licensee shall not refuse to sell fish lying in his stock to any customer.

10. Licence shall be valid upto December 31, 19 .

11. This licence shall be attached to the application for renewal.

Place.....
Date .....

.....
(Signature and designation of the Officer issuing Licence).
(Seal of the Officer issuing licence.)

Published in the Calcutta Gazette, Extraordinary, Part I, dated 9th September, 1994.

JUDICIAL DEPARTMENT

No. 15265-J.—In exercise of the power conferred by sub-section (1) of Section 3 of the Family Courts Act, 1984 (66 of 1984) and in supersession of this department Notification No. 13060-J dated the 12th November, 1991, the Governor, after consultation with the High Court, is pleased hereby to specify in the Schedule below the local limits of the area to which the jurisdiction of the Family Court for the area comprising the city of Calcutta, established under the department notification No. 15264-J dated the 25th August, 1994, shall extend.

THE SCHEDULE

Name of the Court	Local limits of the jurisdiction
1	2
Family Court for the City of Calcutta.	City of Calcutta as defined in clause (3) of Section 2 of the City Civil Court Act, 1953 (West Bengal Act 21 of 1953), that is to say ; the area comprised within the local limits for the time being of the ordinary original civil jurisdiction of the High Court at Calcutta. Metropolitan area of Calcutta, declared or deemed to be declared, as such under Section 8 of the Code of Criminal Procedure 1973 (3 of 1974).

Published in the Calcutta Gazette, Extraordinary, Part I, dated 9th September, 1994.

JUDICIAL DEPARTMENT

No. 16491-J.— In exercise of the power conferred by section 23 of the Family Courts Act, 1984 (66 of 1984), the Governor, after consultation with the High Court at Calcutta, is hereby pleased to make the following rules :—

1. Short title, commencement and application.—(1) These rules may be called the West Bengal Family Courts Rules, 1994.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Application.—They shall apply to the Family Courts established in West Bengal under section 3 of the Family Courts Act, 1984 (66 of 1984).

3. Definitions.—(1) In these rules, unless there is anything repugnant in the subject or context.

(a) "Act" means the Family Courts Act, 1984 (66 of 1984) ;

(b) "Centre" means a Counselling Centre ;

(c) "Court" means a Family Court established under section 3 of the Act ;

(d) "High Court" means the High Court at Calcutta ;

(e) "Judge" means the Judge or the Principal Judge or Additional Principal Judge or other Judge of a Court ;

(f) "Other person" means a person, other than a medical expert or welfare expert referred to in section 12 of the Act (66 of 1984) ;

(g) "Principal Counsellor" means the Principal Counsellor appointed by the High Court.

(h) "Section" means section of the Act (66 of 1984).

4. Salaries, allowances of Judges.—(1) (a) A serving member of the West Bengal Higher Judicial Service appointed as a Judge or Principal Judge or Additional Principal Judge of a Court, shall be entitled to the pay, allowances, and other benefits admissible to him as a serving member of West Bengal Higher Judicial Service.

(b) A serving member of the West Bengal Higher Judicial Service appointed as a Judge or Principal Judge or Additional Principal Judge of a Court being superannuated on attaining the age of superannuation during his tenure as such Judge, Principal Judge or Additional Judge, and continuing to act as such Judge shall receive pay and allowances last drawn by him less pension, if any.

(c) A retired member of the West Bengal Higher Judicial Service appointed as a Judge or Principal Judge or Additional Principal Judge of a Court shall receive the pay and allowances last drawn by him as a member of the said service less pension, if any

(d) Any other person appointed as a Judge or Principal Judge or Additional Principal Judge of a Court shall be entitled to such pay, allowances and other benefits as may be admissible to a member of the West Bengal Higher Judicial Service in the senior time scale of pay from time to time.

5. Other terms and conditions of Service of Judges.— The other terms and conditions of service of a Judge shall be the same as those applicable to a member of the West Bengal Higher Judicial Service from time to time.

6. Terms and conditions of association of Counsellors.—(1) Every Counsellor, other than the Principal Counsellor enjoying a scale of pay associated with a Court, shall be entitled to a fee not exceeding Rs. 5 /- per

to the date of commencement of this section shall be deemed to have been validly taken, done, made, issued or realised, as the case may be, as if sections 2, 3, 4 and 8 of, and the Schedule to, the principal Act as amended by this Act had been in force at all material times when such actions were taken, things were done, rules were made, Notifications were issued or taxes were realised, and, accordingly, no suit or other proceeding shall be maintained or continued in any Court for the refund of the tax realised under the principal Act as stood prior to the said date.

(2) For the removal of doubts it is hereby declared that—

(i) nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any tax paid by him in excess of the amount due from him under the principal Act as amended by this Act ; and

(ii) no act or omission on the part of any person, before the coming into force of this section, shall be liable to any penalty which would not have been so liable if this Act had not come into force.

8. **Repeal and savings.** (1) The Orissa Rural Employment, Education and Production (Amendment) Ordinance, 7 of 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Published in the Orissa Gazette, Extraordinary, No. 1388, dated 8th December, 1993.

THE ORISSA SALES TAX (AMENDMENT AND VALIDATION) ACT, 1993

ORISSA ACT NO. 22 OF 1993

An Act further to amend the Orissa Sales Tax Act, 1947 and to validate certain actions.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Orissa Sales Tax (Amendment and Validation) Act, 1993.

(2) It shall be deemed to have come into force on the 4th day of October, 1993.

2. **Amendment of Section 13-AA.**—In the Orissa Sales Tax Act, 14 of 1947 (hereinafter referred to as the principal Act), for Section 13-AA including its marginal heading the following section shall be deemed to have been substituted with effect from the 16th day of December, 1985, namely :—

"13-AA. **Deduction of tax at source from payment to works-contractors.**—(1) Notwithstanding anything contained in Section 13 or any other law or contract to the contrary, any person responsible for paying any sum to any contractor (hereinafter referred to in this section as the 'deducting authority') for carrying out any works contract, which involves transfer of property in goods, in pursuance of a contract between the contractor and—

(a) Central Government or any State Government, or

(b) any local authority, or

(c) any authority or Corporation established by or under a statute, or

(d) any company incorporated under the Companies Act, 1 of 1956

including any State or Central Government undertaking, or

(e) any Co-operative Society or any other Association registered under the Societies Registration Act, 28 of 1860,

shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or any other mode, whichever is earlier, deduct an amount towards sales tax equal to two percentum of such sum in respect of the works-contract, if the value of the works-contract exceeds rupees one lakh.

(2) While making deduction as referred to in sub-section (1), the deducting authority shall grant a certificate to the contractor in the form prescribed and shall send a copy thereof to the Sales Tax Officer within whose jurisdiction the works-contract is executed.

(3) The amount deducted from the Bills or Invoices shall be deposited into a Government Treasury within one week from the date of deduction in such form or challan as may be prescribed.

(4) Such deposit into Government Treasury shall be adjusted by the Sales Tax Officer towards the Sales Tax liability of the contractor and would also constitute a good and sufficient discharge of the liability of the deducting authority to the contractor to the extent of the amount deposited.

(5) (a) Where, on an application being made by the contractor in this behalf, the Commissioner is satisfied that any works-contract of the nature referred to in sub-section (1) involves both transfer of property in goods and labour or service, or involves only labour or service and, accordingly, justifies deduction of tax on a part of the sum in respect of the works-contract or, as the case may be, justifies no deduction of tax, he shall, after giving the contractor a reasonable opportunity of being heard, grant him such certificate as may be appropriate, in the manner prescribed ;

Provided that nothing in the said certificate shall affect the assessment of the sales tax liability of the contractor under this Act.

(b) Where such a certificate is produced by a contractor before the deducting authority, until such certificate is cancelled by the Commissioner, the deducting authority shall either make no deduction of tax or make the deduction of tax, as the case may be, in accordance with the said certificate.

(6) If any person contravenes the provisions of sub sections (1) or (2) or (3) or of clause (b) of sub-section (5), the Sales Tax Officer shall, after giving him an opportunity of being heard, by an order in writing, impose on such person penalty not exceeding twice the amount required to be deducted and deposited by him into Government Treasury".

3. Validation.—(1) Notwithstanding any judgment, decree or order of any Court or Tribunal or other authority, all deductions towards Sales Tax, pertaining to works contracts involving transfer of property in goods, made under sub-section (1) of Section 13-AA of the principal Act, before the date of commencement of this Act and all proceedings or actions taken or things done, or penalties imposed in contravention of the provisions of sub-section (1) or sub-section (2) or sub-section (3) of the said section, for the purpose of or in relation to such deduction before the said date, shall, for all intents and purposes, be deemed to be, and to have always been, made, taken, done or imposed, as the case may be, as validly and effectively as if the provisions of sub-sections (1), (2), (3), (4) & (6) of Section 13-AA of the principal Act as introduced by Section 2 of this Act had been in

force at all material times when such deductions were made or proceedings or actions were taken or things were done or penalties were imposed and, accordingly, no suit or other proceeding shall be maintained or continued in any Court for the refund of any amount of Sales Tax or penalty realised by such deduction or, as the case may be, imposition under Section 13AA of the principal Act as stood prior to the said date.

(2) For the removal of doubts it is hereby declared that—

(a) no act or omission on the part of any person, before the commencement of this Act shall be liable to any penalty which would not have been so liable if this Act had not come into force ; and

(b) nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any Sales Tax paid by him, in excess of the amount due from him, under Section 13-AA of the principal Act as amended by Section 2 of this Act.

4. **Repeal and savings.**—(1) The Orissa Sales Tax (Amendment and Validation) Ordinance, 8 of 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Published in the Orissa Gazette, Extraordinary, No. 1589, dated 8th December, 1993.

THE ORISSA SPECIAL COURTS (AMENDMENT) ACT, 1993
ORISSA ACT NO. 23 OF 1993

An Act to amend the Orissa Special Courts Act, 1990.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Orissa Special Courts (Amendment) Act, 1993.

(2) It shall be deemed to have come into force on the 13th day of August, 1993.

2. **Amendment of Section 2.**—In Section 2 of the Orissa Special Courts Act, 23 of 1990 (hereinafter referred to as the principal Act), for clause (a), the following clause shall be substituted, namely :—

'(a) 'authorised officer' means any officer not below the rank of a District Judge to be nominated by the State Government with the concurrence of the High Court for the purpose of Section 13 ;";

3. **Amendment of Section 5.**—In Section 5 of the principal Act, in sub-section (1), the words "and that the said offence ought to be dealt with under the Act" shall be omitted.

4. **Amendment of Section 11.**—In the principal Act, Section 11 shall be renumbered as sub-section (1) thereof and, after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely ;—

"(2) The Special Court shall endeavour to dispose of the trial of the case within a period of one year from the date of its institution or transfer, as the case may be.".

5. **Amendment of Section 14.**—In Section 14 of the principal Act, after sub-section (2) the following sub section shall be inserted, namely :—

"(3) Notwithstanding anything contained in sub-section (2) the evidence, information and particulars brought on record before the authorised

officer by the person affected shall not be used against him in the trial before the Special Court.".

6. **Omission of Section 16.**—Section 16 of the principal Act shall be omitted.

7. **Amendment of Section 19.**—In Section 19 of the principal Act, to sub-section (1), the following proviso shall be added, namely :—

'Provided that the authorised Officer, on an application made in that behalf and being satisfied that the person affected is residing in the property in question, may, instead of dispossessing him from the same, permit such person to occupy it on payment of market rent to the State Government".

8. **Repeal and savings.**—(1) The Orissa Special Courts (Amendment) Ordinance, 3 of 1993 is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.

Published in the Orissa Gazette, Extraordinary No. 1690, dated 9th December, 1993.

THE ORISSA ENTERTAINMENTS TAX (AMENDMENT) ACT, 1993
ORISSA ACT NO. 24 OF 1993

An Act further to amend the Orissa Entertainments Tax Act, 1946.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :—

1. **Short title.**—This Act may be called the Orissa Entertainments Tax (Amendment) Act, 1993.

2. **Amendment of Section 13.**—In Section 13 of the Orissa Entertainments Tax Act, 8 of 1946,—

(a) in sub-section (1), for the words "for establishment of low cost Cinema houses", the words for "utilisation, in equal proportion, towards establishment of low cost Cinema house in the State and development of Oriya Film Industry" shall be substituted ; and

(b) in sub-section (2), for the words "for establishment of low cost Cinema houses in the State", the commas and words ", in equal proportion, for establishment of low cost Cinema houses in the State and development Oriya Film Industry" shall be substituted.

Published in the Orissa Gazette, Extraordinary, No. 1696, dated 9th December, 1993.

THE ORISSA PANCHAYAT SAMITI (SECOND AMENDMENT) ACT 1993
ORISSA ACT NO. 26 OF 1993

An Act further to amend the Orissa Panchayat Samiti Act, 1959

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Orissa Panchayat Samiti (Second Amendment) Act, 1993

(2) It shall be deemed to have come into force on the 8th day of September, 1993.

2. **Amendment of Section 46-B.**—In the Orissa Panchayat Samiti Act, 1959 [Orissa Act 7 of 1963] (hereinafter referred to as the principal Act), in

sub-section (4) of Section 46-B,—

(i) for the words "one year", the words "two years" shall be substituted ; and

(ii) the following proviso shall be added at the end, namely :—

"Provided that all requisitions received under sub-section (2) prior to the date of commencement of the Orissa Panchayat Samiti (Second Amendment) Act, 1993, on which no meeting for recording want of confidence has been held by the said date, shall stand abated.".

3. Repeal and savings.—(1) The Orissa Panchayat Samiti (Second Amendment) Ordinance 5 of 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Published in the Orissa Gazette, Extraordinary, No. 1697, dated 22nd December, 1993.

THE ORISSA PANCHAYATI RAJ FINANCE COMMISSION (MISCELLANEOUS PROVISIONS) ACT, 1993
ORISSA ACT NO. 28 OF 1993

An Act to provide for the composition of the Finance Commission, the qualifications requisite for appointment as members thereof and the manner in which they shall be selected and to prescribe their powers.

Be it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India, as follows :—

CHAPTER I
Preliminary

1. Short title and commencement.—(1) This Act may be called the Orissa Panchayati Raj Finance Commission (Miscellaneous Provisions) Act, 1993.

(2) It shall come into force on such date as the State Government may, by Notification, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "Commission" means the Finance Commission constituted by the Governor pursuant to clause (1) of Article 243-I of the Constitution ;

(b) "Gram Panchayat" means a Gram Panchayat constituted under the Orissa Gram Panchayat Act, 1964 (Orissa Act 1 of 1965) ;

(c) "member" means a member of the Commission and includes the Chairman thereof ;

(d) 'Panchayat Raj institution" means a Grama Panchayat or a Samiti of a Parishad ;

(e) "Parishad" means a Zilla Parishad constituted under the Orissa Zilla Parishad Act, 17 of 1991 ;

(f) "prescribed" means prescribed by Rules ;

(g) "rules" means Rules made under this Act ;

(h) "Samiti", means a Panchayat Samiti constituted under the Orissa Panchayat Samiti Act, 1959 (Orissa Act 7 of 1960).

CHAPTER II
Composition and powers of commission including requisite qualification and manner of selection of members

3. **Constitution of the Commission.**—The Commission shall consist of a Chairman and four other members ;

Provided that the Governor may increase the number of such other members if he considers it so expedient in the interest of the Panchayati Raj institution.

4. **Qualification for appointment and manner of selection of members.**—Unless otherwise determined by the Governor as and when circumstances may so require,—

(i) the Chairman of the Commission shall be a person having experience in public affairs who shall be selected, except where it is impracticable in any situation, from among the members of the Council of Ministers of the State ; and

(ii) the other members shall be selected from among the persons who are—

(a) members of the Legislative Assembly of the State ; or

(b) members of any All India Service or of State Civil Service ; or

(c) experts in the field of economics or social-sciences.

5. **Secretary to the Commission.**—The Secretary to the Government of Orissa in the Panchayati Raj Department shall be the Secretary to the Commission and shall convene the meetings of the Commission in consultation with the Chairman thereof.

6. **Personal interest to disqualify for being a member.**—Before appointing a person to be a member, the Governor—

(i) shall satisfy himself that such person will have no such financial or other interest as is likely to affect prejudicially his functions as such member ; and

(ii) shall also satisfy himself from time to time with respect to every member that he does not have any interest as mentioned in clause (i),

and any person who is, or whom the Governor proposes to appoint to be, a member shall, whenever required by the Governor so to do, furnish to him such information as the Governor considers necessary for the performance by him of his duties as a member.

7. **Disqualification for being a member.**—A person shall be disqualified for being appointed or for continuing as a member, if he—

(a) is of unsound mind ;

(b) is an undischarged insolvent ;

(c) has been convicted of an offence involving moral turpitude ; or

(d) has such financial or other interest as is likely to affect prejudicially his functions as a member.

8. **Terms of office of members.**—(1) Every member shall hold office for a period of five years commencing on the date on which the order of the Governor constituting the Commission is published in the Gazette and shall be eligible for reappointment.

(2) Notwithstanding anything in sub-section (1) a member may, by writing under his hand addressed to the Governor, resign from the office at any time.

(3) The Governor shall remove a person from the office of member, if that person—

(a) refuses to act or becomes incapable of acting ; or

(b) is, without obtaining leave of absence from the Chairman, absent

from three consecutive meetings of the Commission ; or

(c) has, in the opinion of the Governor, so abused the position of Chairman or member as to render that person's continuance in office detrimental to the interests of the Panchayati Raj institutions ; or

(d) has ceased to have the eligibility qualification as provided in Section 4 ; or

(e) becomes subject to any of the disqualification in Section 7 ;

Provided that no person shall be removed under clause (e) until that person has been given an opportunity of being heard in the matter.

9. **Powers of Commission.** (1) The Commission shall in the performance of their functions, have all the powers of a Civil Court while trying a suit, in respect of the following matters, namely :—

(a) requiring the production of any document, information or data from the Panchayati Raj institutions ;

(b) summoning and enforcing the attendance of any authority or official connected with the affairs of the Panchayati Raj institutions and requiring them to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, any matter under consideration of the Commission or connected with the affairs of the Panchayati Raj institutions.

(2) In the performance of their functions the Commission shall also have the powers to —

(a) enter into the premises of any Panchayati Raj institution to inspect its functioning ; and

(b) review the day to day income expenditure of any such institutions and to examine—

(i) the pattern of assistance required from the Government in such institutions ;

(ii) the principles which shall govern the grant-in-aid from the Government to such institutions ;

(iii) the measures directed towards maintaining a sound financial position of such institutions including the power to impose taxes and fees ;

(iv) such other matters as they may consider appropriate for the purpose of laying a sound financial base for such institutions to enable them to discharge their powers and functions effectively.

CHAPTER III

Miscellaneous

10. **Filling up casual vacancies.**—Any casual vacancy in the office of the Chairman or of a member due to death, resignation, removal or otherwise shall be filled up by the Governor by fresh appointment in accordance with this Act of a person thereto who shall hold office for the unexpired period of the term of the Chairman or the member in whose place he is so appointed.

12. **Conditions of service and salaries and allowances of members.**—(1) The Office of the Chairman and of every other member shall be honorary ;

Provided that the Chairman and the other members may be paid such honorarium as the State Government may, by Rules, determine from time to time.

(2) The Chairman and other members shall be paid travelling allow-

ance at such rate as the State Government may, by Rules, determine from time to time.

12. **Officers and other employees of the Commission.**—(1) The State Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officers and employees appointed for the purpose of the Commission shall be such as may be prescribed.

13. **Procedure to be regulated by the Commission.**—(1) The Commission shall meet as and when necessary at such time and place as the Chairman may decide.

(2) The Secretary to the Commission shall intimate the members the date, time and place of every meeting of the Commission.

(3) The Commission shall regulate its own procedure.

14. **Vacancies, etc not to invalidate proceedings of the Commission.**—No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

15. **Power to make Rules.**—(1) The State Government may, by Notification, make Rules for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such Rules may provide for all or any of the following matters, namely :—

(a) the honorarium that may be paid under the proviso to sub-section (1) of Section 11 to the Chairman and the other members ;

(b) the rate at which travelling allowance shall be paid to the Chairman and other members under sub-section (3) of Section 11 ;

(c) the salaries and allowances payable to, and other terms and conditions of service of, the officers and employees appointed for the purpose of the Commission under sub-section (2) of Section 12 ;

(d) the manner of intimating the date, time and place of meetings of the Commission to the members under sub-section (2) of Section 13 ;

(e) any other matter which is required to be, or may be prescribed.

16. **Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Gazette, make provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient, for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

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ORISSA ACT NO. 29 OF 1993

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1. **Short title.**—This Act may be called the Orissa Land Reforms

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